



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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नई दिल्ली, शुक्रवार, नवम्बर 26, 2010/अग्रहायण 5, 1932

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NEW DELHI, FRIDAY, NOVEMBER 26, 2010/AGRAHAYANA 5, 1932

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 25 नवम्बर, 2010

का.आ. 2849(अ).—केन्द्रीय सरकार ने विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे इसमें इसके पश्चात्) उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना संख्यांक का.आ. 1090(अ), तारीख 14 मई, 2010 द्वारा लिबरेशन टाइगर्स ऑफ तमिल ईलम (जिसे इसमें इसके पश्चात् लिट्टे कहा गया है) को विधिविरुद्ध संगम के रूप में घोषित किया था;

और, केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना संख्यांक का. आ. 1397(अ), तारीख 10-6-2010 द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसमें इसके पश्चात् उक्त अधिकरण कहा गया है) जिसमें उच्च न्यायालय के माननीय न्यायाधीश न्यायमूर्ति विक्रमजीत सेन थे, का गठन किया;

और, केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस न्यायनिर्णयन के प्रयोजन के लिए कि क्या लिट्टे को विधिविरुद्ध घोषित किए जाने का पर्याप्त कारण था या नहीं, 14 जुलाई, 2010 को उक्त अधिकरण को उक्त अधिसूचना निर्दिष्ट की थी।

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अधिसूचना संख्यांक का. आ. 1090(अ), तारीख 14 मई, 2010 में की गई घोषणा की पुष्टि करते हुए, 12 नवम्बर, 2010 को एक आदेश (जिसे इसमें इसके पश्चात् उक्त आदेश कहा गया है) किया था।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उप-धारा (4) के अनुसरण में उक्त अधिकरण के उक्त आदेश को प्रकाशित करती है, अर्थात् :-

(निर्णय अंग्रेजी अधिसूचना में छपा है)

[फा. सं. आई-11034/1/2010-आईएस-1]

धर्मेन्द्र शर्मा, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 25th November, 2010

S.O. 2849(E).—Whereas, the Central Government, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act) declared vide notification of the Government of India in the Ministry of Home Affairs number S.O.1090(E), dated the 14th May, 2010 the Liberation Tigers of Tamil Eelam (hereinafter referred to as LTTE) to be an unlawful association;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted vide notification of the Government of India in the Ministry of Home Affairs number S.O.1397(E), dated the 10-6-2010 the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Mr. Justice Vikramajit Sen, a Judge of the Delhi High Court;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the said Tribunal on 14th July, 2010 for the purpose of adjudicating whether or not there was sufficient cause for declaring the LTTE as unlawful;

And whereas the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, made an order (hereinafter referred to as the said order) on the 12th November, 2010, confirming the declaration made in the notification number S.O.1090(E), dated the 14th May, 2010;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the Order of the said Tribunal, namely:—

**TRIBUNAL UNDER THE UNLAWFUL ACTIVITIES  
(PREVENTION) ACT, 1967**

Dated the 12th November, 2010

In Re:

LIBERATION TIGERS OF TAMIL EELAM (LTTE)

CORAM:

HON'BLE MR. JUSTICE VIKRAMAJIT SEN

PRESENT:

Union of India through : Mr. A.S. Chandhioke, Additional Solicitor General with Mr. Jatan Singh and Mr. Neeraj Chaudhuary, Advocates along with Mr. P.K. Mishra, Director (Internal Security) and Mr. Virender Kumar, Under Secretary, Ministry of Home Affairs, New Delhi. Mr. Shailender Sharma, Government Pleader.

State of Tamil Nadu : Mr. S. Thananjayan, Standing Counsel with Mr. M. Ashok Kumar, Superintendent of Police 'Q' Branch, CID Headquarter, Chennai.  
through: Mr. Vaiko, General Secretary, Marumalarchi Dravida Munnetra Kazhagam  
Mr. N. Chandrashekharan, Advocate for Mr. Pazha Nedumaran, President, Tamilar Desiya Iyakkam.  
Mr. M. Radhakrishnan, Advocate for Prisoners Rights Forum.  
Mr. T. R. Nagpal, Registrar of the Tribunal.

**JUDGMENT**

1. Vide the notification dated the 14th May, 2010 the Central Government in exercise of powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as "the Act"),

declared the Liberation Tigers of Tamil Eelam (in short referred to as "the LTTE") to be an Unlawful Association. In exercise of powers conferred by proviso to sub-section (3) of that Section the Central Government directed that the notification shall, subject to any order made in Section 4 of the Act, have immediate effect from the date of its publication in the Official Gazette. On 10th June, 2010 the Reference was made to the Tribunal to adjudicate whether or not there was sufficient cause for declaring the LTTE as an Unlawful Association.

2. Notification No.1090(E), dated 14th May, 2010 published in the Gazette of India, Extraordinary Part II, Section 3, Sub-section (ii) declaring the LTTE to be an Unlawful Association was in the following terms:

"S.O. 1090(E).—WHEREAS the Liberation Tigers of Tamil Eelam (hereinafter referred to as the LTTE), is an association based in Sri Lanka but having its sympathizers, supporters and agents in the territory of India;

And whereas the LTTE's objective for a separate homeland (Tamil Eelam) for all Tamils threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of an unlawful activity;

And whereas, the turbulence in Sri Lanka was exploited by the pro-LTTE forces to draw up support for the LTTE and its cause by taking out processions, demonstrations, etc., in spite of the ban, causing disquiet and threat to the security of the State of Tamil Nadu;

And whereas, though LTTE has been decimated in Sri Lanka but recent reports reveal that remnant LTTE cadres/leaders are regrouping in Tamil Nadu in pursuance of their avowed objective of establishing separate Tamil Eelam and wrecking revenge on the traitors (Government of India) an enemies (Government of Sri Lanka).

Possibilities of these remnant cadres using India, especially in the State of Tamil Nadu, as a rear base for their regrouping activities thus cannot be ruled out as some LTTE cadres interdicted recently, had come by clandestine sailing. Possibility of their entering India through sea route and genuine documents in the guise of Sri Lanka Tamil refugees cannot be ruled out;

And through articles in the internet portals, the diaspora continue to spread anti-India feeling amongst the Sri Lankan Tamils by holding the top Indian political leaders and bureaucrats responsible for the defeat of the LTTE. Such propaganda through internet which remains continued, are likely to impact VVIP security adversely in India;

And whereas, for the reasons aforesaid, the Central Government is of the opinion that the LTTE is an unlawful association and there is a continuing strong need to control all such separatist activities by all possible means;

And whereas, the Central Government has the information that —

- (i) the activities of the LTTE remnant cadres, dropouts, sympathizers who have been traced out recently in the State of Tamil Nadu suggest that the cadres sent to Tamil Nadu would ultimately be utilized by the LTTE for unlawful activities;
- (ii) the activities of pro-LTTE organizations and individuals have come to notice in India, despite the ban in force and attempts have been made by these forces to extend their support to the LTTE;
- (iii) the LTTE leaders, operatives and supporters have been inimically opposed to India's policy on their organization and action of the State machinery in curbing their activities;

AND WHEREAS, the Central Government is of the opinion that the aforesaid activities of the LTTE continue to pose a threat to, and are detrimental to the sovereignty and territorial integrity of India as also to the public order and, therefore, it should be declared as an unlawful association;

AND WHEREAS, the Central Government is further of the opinion that (i) because of the LTTE's continued violent and disruptive activities prejudicial to the integrity and sovereignty of India; and (ii) it continues to adopt a strong anti-India posture as also continues to pose a grave threat to the security of Indian nationals, it is necessary to declare the LTTE as "an Unlawful association" with immediate effect;

Now, therefore, in exercise of the powers conferred by sub-section (1) and proviso to sub-section (3) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Liberation Tigers of Tamil Eelam (the LTTE) as an unlawful association and directs, that this notification shall, subject to any order that may be made under Section 4 of the said Act, have effect on and from the date of its publication in the Official Gazette."

3. As required by Rule 5 of the Act, the Central Government along with the Reference letter dated 14th July, 2010 has forwarded the resume regarding the aims, objectives and activities of the LTTE as also "The Constitution of People's Front of Liberation Tigers", the front organisation of the LTTE. The documents attached to the Reference also include details of the cases registered and/or arrests made in Tamil Nadu, activities of pro-LTTE organizations and Tamil chauvinists groups since May, 2008 as evidence to show that LTTE still has a strong presence in Tamil Nadu.

4. On receipt of the Reference, a preliminary hearing was held by this Tribunal on 4th July, 2010 in New Delhi on

which date Notice was issued to the LTTE under sub-section (2) of Section 4 of the Act, to show cause within thirty days from the date of service of such notice, as to why it be not declared an Unlawful Association. This Notice was made returnable for 27.8.2010. Since there was no particular address of the LTTE in India, it was directed that Notices be served upon LTTE in the same manner as the Notification banning it had been served. It was further directed that copies of the Notice be served at its Principal Office or by affixing a copy of the Notice at some conspicuous part of the office of the Association, if any, in India, and abroad, including Sri Lanka. It was also directed that contents of the Notice be made known by proclamation, by beat of drums and/or by means of loudspeakers in the area in which the activities of the Association are ordinarily carried on. In addition, it was directed that the Notice be served by publication in a National Newspaper in English and in one vernacular newspaper of the respective States in which the activities of the LTTE are allegedly carrying on. Notice was also directed to be published in two leading newspapers in Sri Lanka either in 'Island', 'Virakesari', 'Daily News' or 'Thinakaran Sunday Observer'. Notice was also directed to be served upon the LTTE by way of broadcasting on All India Radio and telecast on Doordarshan.

5. Pursuant to the directions given by the Tribunal, Notices were duly published in the State of Tamil Nadu in the Tamil Nadu Editions of two English Dailies viz., "The Hindu" and the "Sunday Express" and in a Tamil Daily viz., "Daily Thanthi" on 1.8.2010. Copies of these publications are filed as Annexure II. The Sri Lankan Ministry of External Affairs informed the Indian High Commission in Colombo that the organizational structure of the LTTE was no longer in existence in Sri Lanka and hence the Notice could not be served on the LTTE in Sri Lanka. Be that as it may, Notices were duly published in Sri Lankan Newspapers, namely, Daily News (English) and Virakesari (Tamil) on 20.8.2010. Copies of these publications with a supporting affidavit are filed as Annexure I. An Affidavit of Service was filed by Mr. Virender Kumar, Under Secretary (IS.1), Ministry of Home Affairs, New Delhi along with copies of these publications and the copies of the Notices. Notices were also exhibited on the Notice Boards of Collectorates, Taluk Offices, Revenue Divisional Offices, Police Headquarters, District Police Offices and Police Stations in Tamil Nadu by the State Government of Tamil Nadu. Notice was also served on the LTTE by broadcast on All India Radio and telecast on Doordarshan at different Kendras/Stations on different dates. Copies of telecast/broadcast announcements are enclosed as Annexure III.

6. Despite Notices having been served in every possible and conceivable manner on the LTTE, neither was any appearance entered nor was any cause shown on their behalf as contemplated in Section 4(3) of the Act. Even in the absence of any such cause being shown by the

Association, the Tribunal is required to hold an inquiry in the manner specified in Section 9 of the Act and decide whether or not there is sufficient cause for declaring the Association to be Unlawful. Therefore, this Tribunal proceeded with such an inquiry in accordance with the procedure laid down in Section 9 of the Act.

7. Though there was no representation on behalf of the LTTE through any of its members or office-bearers, some persons applied for impleadment/intervention before the Tribunal on the premise that they are sympathizers and supporter of the ideology of the LTTE. First of such impleadment was sought by Mr. Vaiko, General Secretary of Marumalarchi Dravida Munnetra Kazhagam on the ground that he is a sympathizer and supporter of the ideology of the LTTE and is aggrieved by the atrocities allegedly committed on the innocent Eelam Tamils who are branded as LTTE members and dealt with as terrorists. He also apprehended that his speeches, public meetings and other political activities are being referred by the Central Government to support the ban on LTTE and that this has an adverse impact on his civil life. Therefore, he posited that he should be allowed to represent himself and the ideology he supports, in the proceedings of this Tribunal. Mr. Vaiko also argued that since the stand of the Central Government is that LTTE has been completely decimated, there cannot possibly be any participation on its behalf. Therefore, he may be allowed to participate in the inquiry and place relevant facts before the Tribunal.

8. Per contra, the learned ASG opposed the impleadment of Mr. Vaiko on the ground that in a hearing of any Tribunal constituted under the Act, only the Association proposed to be banned or its Office Bearers or its Members are proper parties before the Tribunal. Reliance was placed on Section 4(3) of the Act which states that :

#### 4. Reference to Tribunal

...

(3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in Section 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of Section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.

Reference was also made to Section 8(8) and Section 36(2)(b) of the Act. These provisions, in contrast to Section 4(3) employ the word "any person" but the remedy provided under these Sections is postulated either before

the concerned District Judge or the Central Government but not the Tribunal constituted in accordance with the Act.

9. Learned ASG also sought support from the observations of their Lordships in *Jamaat-E-Islami Hind vs- Union of India*, (1995) 1 SCC 428 wherein it was observed that - "The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association". It was accordingly argued that only the Association or the Organization can adduce evidence to rebut the claim of the Central Government. Attention was drawn to the Notification dated 10.6.2010 of the Central Government to argue that there was no reference or mention of Mr. Vaiko or his political party and, therefore, there would be no adverse impact caused to him by the Tribunal's hearing.

10. After hearing both sides, this Tribunal, vide Orders dated 25.9.2010, rejected the impleadment in these words :—

#### "Application No. 1/2010

The Applicant, Mr. Vaiko has sought his impleadment before this Tribunal under Section 9 of the Unlawful Activities (Prevention) Act, 1967 (Act for short) read with Order I Rule 10(2) and Section 151 of the Code of Civil Procedure, 1908 (CPC for short). The Applicant urges that he is a sympathizer and supporter of the ideology of the LTTE and is aggrieved by the atrocities allegedly committed on the innocent Eelam Tamils who are branded as LTTE members and dealt with as terrorists.

The Applicant states that he is the General Secretary of a political party, Marumalarchi Dravida Munnetra Kazhagam. The Applicant apprehends that the Central Government may refer to the various activities, including public meetings, demonstrations and speeches of the Applicant and his political party. Adverting to Order I Rule 10(2) of the CPC, the Applicant has submitted that any reference to his activities and utterances will have a bearing on his civil life. Therefore, he should be allowed to represent himself and the ideology he supports, in the proceedings of this Tribunal.

Mr. A.S. Chandhiok, learned Additional Solicitor General appearing on behalf of the Government of India, has opposed the impleadment application on the ground that in a hearing of Tribunal constituted under the Act, only the Association proposed to be banned or its Office Bearers or its Members are proper parties before the Tribunal. Learned ASG has placed reliance on Section 4(3) of the Act in support of his contention which reads as follows :—

## 4. Reference to Tribunal.—

....

(3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in Section 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of Section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.

To buttress this argument, learned ASG has cited *Jamaat-E-Islami Hind vs. Union of India*, (1995) 1 SCC 428 where the Court observed that — "The procedure to be followed by the Tribunal must, therefore, be such which enables the Tribunal to itself assess the credibility of conflicting material on any point in controversy and evolve a process by which it can decide whether to accept the version of the Central Government or to reject it in the light of the other view asserted by the association". In the light of these observations, it is argued that it is only the evidence adduced by the Association or the Organization that can be looked into by the Tribunal. Learned ASG has also drawn my attention to the Notification dated 10-6-2010 of the Central Government to argue that there is no reference or mention of the Applicant or his political party and, therefore, there would be no adverse impact caused to him by the Tribunal's hearing. The learned ASG has further drawn attention to Section 8(8) and other provisions which speak of "any person" in contradistinction to the words employed in Section 4(3) of the Act. He has also contended that the Applicant may have the right of audience under Section 36(2) (b) but that is before the Central Government.

Mr. Vaiko has categorically denied that he is a member of the LTTE. He contends that he sympathizes with the Organization's aspirations and deprecates its ban, which impacts various innocent boys and girls. He also argues that since the stand of the Central Government is that LTTE has been completely decimated, there cannot be any participation on its behalf. Therefore, he may be allowed to participate in the inquiry and place relevant facts before the Tribunal.

I am of the opinion that the Act provides for an opportunity to respond only to the subject Association/Organisation or its Office-bearers or

Members. The language of Section 4(3) of the Act is categorical. The Act specifically provides for the remedy which can be availed of by any person affected by the Notification which are before the District Judge or the Central Government.

Reliance placed on Order I, Rule 10 of the CPC by the Applicant, in my view, is misplaced as the Act states under Section 9 that the procedure applicable in the Inquiry to be conducted by the Tribunal is that provided under the Code of Criminal Procedure, 1973 which does not provide for impleadment of parties who are not directly involved. Moreover, the Applicant has failed to disclose any material ground or grievance caused to him by this Inquiry that would make him a proper or necessary party.

I have carefully perused the pronouncement in *Jamaat-E-Islami* already referred to above. The Hon'ble Supreme Court has pointedly articulated the need of the Tribunal to act in a judicial manner, since otherwise it may be perceived as a mere rubber stamp of the Government. Their Lordships have observed that in order to "satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy." Accordingly, I do not rule out the possibility of permitting a person who enjoys credibility to address arguments to present a point of view different to the Government. Even so, Mr. Vaiko has no right to be impleaded as a party.

Impleadment Application is, therefore, rejected."

11. In the hearing held in Chennai on 5-10-2010, similar pleas of interventions were moved by Mr. M. Radha Krishnan on behalf of Tamil Nadu Peoples Right Forum and by Mr. Pazha Nedumaran on behalf of Tamilar Desiya Iyakkam. Arguments on the pleas of intervention were heard on 5-10-2010 itself. Vide separate Orders dated 6-10-2010, this Tribunal, relying on its earlier orders passed in Mr. Vaiko's application on 25-9-2010, disallowed both the pleas of interventions holding that the locus standi, so far as this Tribunal is concerned, is restricted by virtue of Section 4(3) of the Act to the concerned Association or its office bearers or members. Mr. P. Pugalenth, Co-ordination Secretary, Tamil Nadu People's Rights Forum approached the High Court of Judicature at Madras in W.P. No. 23141 of 2010 challenging the view taken by this Tribunal along with some other issues. The Writ Petition was not allowed. The operative portion of the said Judgment dated 10-10-2010 reads thus :

"10. There is no dispute with regard to the decisions highlighted by the learned counsel. The Tribunal was fully conscious of the legal proposition laid down by the Supreme Court in *Jamaat-E-Islami Hind vs. Union of India*, (1995) 1 SCC 428 wherein it is held that in order to satisfy the minimum requirement of a

4566 GI/10-2

proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy.

11. In the instant case, as noticed above, the Tribunal has given full opportunity to the persons aggrieved and heard the parties, and therefore, in our view, the petition filed by the petitioner before the Tribunal has rightly been rejected by the Tribunal. The impugned order passed by the Tribunal therefore needs no interference by this Court. Accordingly, this writ petition is dismissed. No costs. Consequently, miscellaneous petition is closed."

12. In order to support the action that there were sufficient reasons for issuing Notification under Section 3(1) of the Act declaring LTTE as an Unlawful Association, an affidavit of Mr. P.K. Mishra, Director, Internal Security Division of the Ministry of Home Affairs, Government of India has been filed. Mr. M. Ashokkumar, Superintendent of Police, 'Q' Branch, CID, Tamil Nadu, has also tendered his affidavit. The State Government has also tendered the evidence of five Police Officers. Mr. M. Ashokkumar was examined as PW-1 on 5th and 6th October, 2010. Mr. P.K. Mishra was examined as PW-2 on 20-10-2010. Shri D.Chandra Kumar, Inspector of Police 'Q' Branch, CID, Sivagangai District was examined as PW3 on 28-10-2010. Mr. D.Ilangovan Deputy Superintendent of Police, Kumbakonam, Thanjavur District was examined as PW4 on 28-10-2010. Mr. R.Baskaran, Inspector of Police, 'Q' Branch CID, Thoothukudi District, Tamil Nadu was examined as PW5 on 28-10-2010. Mr. A.Mohammed Aslam, Deputy Superintendent of Police, Organised Crime Intelligence Unit, Chennai was examined as PW6 on 28-10-2010 and Mr. A.Thangavel, Deputy Superintendent of Police, Veda sandur, Sub Division, Dindigul District, Tamil Nadu was examined as PW7 on 28-10-2010. All these witnesses have duly proved various documents filed along with their affidavits, which were thereupon exhibited and numbered.

13. Mr. M. Ashokkumar has deposed that Volumes IV to VI filed along with his affidavit in sealed cover have been classified as 'Confidential' and 'Sensitive' documents and Volume VIII handed over during the deposition is classified as 'Inputs And Other Details for Discussion Only' and it is apprehended that disclosure of which could jeopardize the entire operations apart from compromising the safety and security of the Nation as well as the individuals connected to the operations. Seal of these Volumes were opened and after perusal by this Tribunal of the documents contained therein the Volumes have been ordered to be re-sealed.

14. While Mr. A.S. Chandhiok, learned ASG, has argued the matter on behalf of the Central Government, Mr. S. Thananjayan, Advocate argued on behalf of the State of

Tamil Nadu. The Tribunal also invited Mr. Vaiko, General Secretary, Marumalarchi Dravida Munnetra Kazhagam, Mr. N.Chandrashekhara, Advocate for Mr. Pazha Nedumaran, President, Tamilar Desiya Iyakkam and Mr. M.Radhakrishnan, Advocate for Prisoners Rights Forum to present their inputs, despite having declined their aforementioned pleas for impeachment.

15. PW-1, by means of his Affidavit dated 21st September, 2010, predicates that Notification dated 14th May, 2010 is justified for the following reasons :

- (i) that the Liberation Tigers of Tamil Eelam (LTTE) was originally formed in 1974 as Liberation Tigers in Sri Lanka. It took its present name in 1976 with Velupillai Prabhakaran as Military Commander. This organization has given to itself a Constitution which is marked as Exhibit P-1/2; that the objectives of the People's Front of Liberation Tigers (PFLT), which is a political front of LTTE proclaimably speaks of all Tamils irrespective of geographical distinction. The inference is irresistible that while the struggle of LTTE was principally against the Government of Sri Lanka, its larger objective, given the geographical contiguity and ethnic affinity, would inexorably envelop and include the Tamil areas of India also and thus pose a real, present and serious threat to the sovereignty and territorial integrity of India. There is no indication to show that PFLT has revoked its Constitution or in any manner retracted from its avowed objectives of creating an independent and separate Tamil Eelam consisting of parts of India.
- (ii) The objective of TNLA is also for secession of Tamil Nadu from Indian Union. Another underground organization and a front organization of TNLA, viz. Tamil Nadu Liberation Front, had exhibited, in the internet, a map of Greater Tamil Nadu, encompassing Eelam (Sri Lanka), Tamil Nadu, Kerala, Lakshadweep and Maldives. Such activities indicate their pro-LTTE stance, ultimate concept of separate Tamil Eelam, and even for secession of Tamil Nadu from the rest of India.
- (iii) Although it is claimed that the LTTE has been decimated in Sri Lanka, its unlawful activities are continued by its remnant cadres as well as local smugglers and pro-LTTE operatives for procuring Explosives, Detonators, Chemicals, Iron Balls, Aluminium and Lead bars, Computer Spare parts, GPS, Walkie Talkie Sets, Plastic Granules, Boats, Dry Battery Cells, etc. and clandestinely transporting them through boats across the sea from the shores of Tamil Nadu.
- (iv) The LTTE has got supporting organisations, sympathizers and agents in India and the overt activities of these pro-LTTE organizations have come

to notice. The following are the known pro-LTTE organizations in India :—

- (i) Periyar Dravida Kazhagam
  - (ii) Tamil Desa Poduvudamai Katchi
  - (iii) World Tamil Confederation
  - (iv) Tamil Desiya Viduthalai Iyakkam
  - (v) Tamilar Kalam
  - (vi) Viduthalai Chiruthaikal Katchi
  - (vii) Sri Lankan Tamils Protection Movement
  - (viii) Peoples Democratic Youth Association
  - (ix) Revolutionary Youth Front
  - (x) Tamilar Kazhagam
  - (xi) Naam Tamilar Iyakkam
  - (xii) Pattali Makkal Katchi
  - (xiii) Marumalarchi Dravida Munnetra Kazhagam
  - (xiv) Tamil Nadu Liberation Army (Banned)
  - (xv) Tamil National Retrieval Troop (Banned)
- (v) Despite the ban in force, attempts have been made by these forces to extend their support. Such activities indicate their pro-LTTE stance, ultimate concept of separate Tamil Eelam and even for secession of Tamil Nadu from the rest of India.
- (vi) Apart from the above political/pro-LTTE support base, the clandestine support base involving SLT refugees and local Indians are established by their activities of smuggling goods for LTTE. Walkie talkie sets, satellite phones, power stations, nano stations, Ammonium Nitrate, ammunition, Petrol, oil and lubricants (commonly referred to as POL) items, explosives, dry battery cells, chemicals, speed boat engines, boats and other essential commodities are in great demand by LTTE and to overcome the shortfalls, they are luring the fishermen and known smugglers with a good premium for such commodities. They also utilize the Sri Lankan refugees as their agents for the purpose of procuring the goods.

16. The affidavit further mentions that subsequent to the last extension of the ban on LTTE in 2008 some of the cases already registered against pro-LTTE elements, Tamilar Pasarai etc. ended in conviction which amply proves the seditious object of the groups which were established/influenced in Tamil Nadu by LTTE. The details of the important cases that have ended in conviction, as deposed by him are as follows:

**(1) Dhanushkodi PS Cr.No.18/2007**

The Indian Navy intercepted a mechanized boat bearing Reg. No. VOC 2317 at Dhanushkodi Sea in 5th Adams Bridge on the way to Sri Lanka on 12-2-2007 and seized aluminium metal bars - 92 bags, metallic rings-3 plastic bags, metal pin-3 plastic bags, metal cup and clip -

6 gunny bags, rubber washers - 3 plastic bags, through a mahazar. In this connection, a case in Dhanushkodi PS Cr.No.18/2007 u/s.10(a)(iv) of Unlawful Activities (Prevention) Act, 1967 r/w. 120(B) IPC, 14 of Foreigners Act r/w. 3(a) r/w. 6(a) of Passport (Entry into India) Rules 1950 was registered. In this case, Daniel Jeyaretnam @ Thambi @ Thambianna @ Arul Selvam @ Ilankathir (45) S/o. Jeyaretnam @ Thiagaraja, Moondramvaaikkal, Paranthan, Kilinochchi, Sri Lanka was arrested on 25-8-2008, and he is a permanent resident of Nagerkovil, Jaffna, a member of Sea Tiger Wing of LTTE, a banned organization in India, who was earlier arrested by Chennai City 'Q' Branch CID on 30-7-2008 in Chennai City 'Q' Branch CID Cr. No. 5/2007 u/s. 120 (b) IPC and 10, 13(1)(2) of Unlawful Activities (Prevention) Act, 1967 and Section 14 of Foreigners Act, 1946, who gave a voluntary confessional statement. The confessional statement revealed that the above accused was involved in the crime that took place on 12-2-2007 i.e. an interception of mechanized boat bearing Reg. No. VOC 2317 and seizure of above said materials in Dhanushkodi PS Cr.No.18/2007. Charge sheet was filed before the District Munsif-cum-Judicial Magistrate, Rameswaram and taken on file in CC No. 118/2009, dated 28-8-2009. He was convicted by the District Munsif-cum-Judicial Magistrate, Rameswaram on 19-10-2009 and sentenced to undergo RI for one year and to pay a fine of Rs. 50 i/d one month imprisonment under Section 10(a)(iv) of the Unlawful Activities (Prevention) Act, RI for one year under Section 120(B) of IPC, RI for one year and to pay a fine of Rs. 50 i/d one month imprisonment under Section 14 of Foreigners Act and RI for three months under rule 3(a) r/w 6(a) of Passport (Entry into India) Rules 1950 and was ordered to undergo all the sentence concurrently. The remaining 18 locals are facing trial.

**(2) Dhanushkodi PS. Cr. No. 19/2007**

The case in Dhanushkodi PS. Cr. No. 19/2007 u/s. 10(a)(iv) of Unlawful Activities (Prevention) Act, 1967 r/w. 120(B) IPC, 14 of Foreigners Act, r/w. 3(a) r/w.6(a) of Passport (Entry into India) Rules 1950 relates to smuggling of metal bar, revolving light, clutch plate, diesel, etc. on 14-2-2007 to Sri Lanka.

**The following accused are involved in this case**

- (1) Anton Sugumar @ Sugumar (45), Sarvananthan, Vannankulam, Mullaitheevu.
- (2) Jayakaran (36) s/o. Thangathurai, Maniam thottam, Jaffna, Sri Lanka
- (3) Ranjithkumar (31) s/o. Thiagaraja, Ariazhai, Jaffna, Sri Lanka.
- (4) Kirubakaran @ Kirubha @ Sankar, Guru nagar, Kadarkarai Salai, Jaffna, Sri Lanka (absconding)
- (5) Veluchamy (49) s/o. Chelliah, Ganesan Illam, near Railway North Gate, Madurai.

- (6) Selvaraj (44) s/o. Vanniyaperumal, Anuppanaadi, Madurai.
- (7) Karmegam s/o. Mayandi, 37, Pandiyan Nagar, Arsaradi, Madurai.
- (8) Dhamodaran s/o. Alagarsamy, 2-1st Street, Nachiyarkulam, Pasumpon Nagar, Madurai.
- (9) Rajagopal s/o. Chinna Mallusamy, South Street, Kolathur, Thoothukudi district, Ammainayakkanoor, Nilakottai TK, Dindigul District.
- (10) Raj (40) s/o. Chinnamallusamy, South Street, Kolathur, Thoothukudi district.

In this case, charge sheet was filed before the JM, Rameswaram on 30-10-2008 and taken on file in CC No. 172/2008 on 17-12-2008. Three accused (Sri Lankan Tamils) viz., (i) Anton Sugumar @ Sugumar (ii) Jayakaran and (iii) Ranjithkumar were convicted by JM Court, Rameswaram on 31-12-2008 and were sentenced each to undergo RI for one year under Unlawful Activities Act, RI for one year under Foreigners Act and RI for three months under Passport Rules 1950. The remaining 6 locals are facing trial.

**(3) B3 Fort PS. Cr. No. 160/90**

The case in B3 Fort PS. Cr. No. 160/90 u/s. 3(3) and 4(1) of TADA Act, 1987 and Sec. 5 of Explosive Substances Act, Section 13 r/w. Section 25(1-B), Sec. 7 r/w. (1-A) of Arms Act u/s. 3(3) and 4(1) of TADA Act, 1987 and Sec. 5 of Explosive Substances Act Section 13 r/w. Section 25(1-B), Sec. 7 r/w. (1-A) of Arms Act relates to planting of a bombs with electronic timer device by members of Tamilar Pasarai led by Ilango @ Kumaran @ Ravi @ Santhosh on 22-9-1990 at the Secretariat, Chennai. 14 accused were involved in this case. Of them, the following three accused were convicted earlier :

- (1) Sathesh @ Vadivelu @ Suresh @ Velu (27/90) S/o. Sundaram, Sethunaickenpatti, Dindugal (Also at No. 278 Anna Nagar, Melaambikapuram, Trichy) (RI for 5 years under TADA Act and 5 years for Explosive Substances Act) - Date of conviction - 12-5-1997.
- (2) Abdul Kalam @ Prasath (25/90) S/o. Sulaiman, No. 4/13, West Muslim Street, V. Pasupathykoil, Thanjavur District (RI for one year and fined Rs.100) - Date of conviction - 12-5-1997.

One of the absconding accused, **Raja @ Ayyappan** s/o. Balasubramanian, No.19, Rajampalayam Street, Keelapalam, Mannargudi, Thiruvavur District was arrested on 21-5-2007. Charges were framed against the accused Raja @ Ayyappan on 3-12-2007. After due trial, judgement was pronounced by the Hon'ble Judge Tr. A.K. Annamalai, Designated Court II, Chennai on 4-12-2009 convicting and sentencing accused Raja @ Ayyappan to undergo RI for 2 years u/s 120 B IPC, RI for 5 years u/s. 120 B IPC r/w. 3(3) TADA Act, RI for 5 years u/s. 120 B IPC r/w. 4(1) of TADA Act, 1987 and RI for 5 years u/s. 120 B r/w. 5 of Explosive Substances Act and ordered that all the sentences to run concurrently.

**(4) Trichy 'Q' Branch CID. Cr. No. 1/2008**

The case in Trichy 'Q' Branch CID. Cr. No. 1/2008 u/s. 120(B) IPC Section 10(a)(iv) and 13(2) of Unlawful Activities (Prevention) Act, 1967 relates to arrest of two Sri Lankan Tamils viz., (1) Premraj @ Raj @ Durai (49/2008) s/o. Velummylum, Velvattithurai, Jaffna, Sri Lanka and (2) Kumar @ Diesel Kumar @ Sivakumar (43/2008) s/o. Subramaniam, Velvattithurai, Jaffna, Sri Lanka for making a big boat measuring 70' x 15.5' x 18' at Munambam, near Kochin, Kerala State at an estimation of Rs.36 lakhs for the very purpose of sending the same to Liberation Tigers of Tamil Eelam (LTTE), the banned outfit in India, on the direction of Soosai, leader of Sea Tiger Wing of LTTE and an LTTE cadre Raj @ Babu. Cell phones, Cash Rs. 6330, PAN card, etc. were seized. In this case, charge sheet was filed before the Court of Judicial Magistrate-II, Trichy on 30-1-2009 and taken on file in CC.No. 48/2009 dated 23-3-2009. After due trial, the case came up for judgement before the Judicial Magistrate No.1, Trichy (in-charge of JM-II, Trichy) on 6-4-2009. The Honorable Court convicted A1 Premraj @ Raj @ Durai and A2 Kumar @ Diesel Kumar @ Sivakumar and sentenced them to undergo one year RI each u/s.120(B)(i) IPC and one year R.I. each u/s. 13(2) of Unlawful Activities (Prevention) Act, 1967 and ordered to run both the convictions concurrently. The Court also ordered to confiscate the properties viz., the boat, cash Rs. 8.5 lakhs and cash Rs. 6330 and two cell phones.

**(5) PUDUKOTTAI PS CR.NO.1/2008**

The case in Pudukottai 'Q' Branch CID Cr. No. 1/2008 u/s. 120(b) IPC, Section 13(2) of the Unlawful Activities (Prevention) Act, 1967 and Section 14 of Foreigners Act, 1946 relates to purchase and transport of five Yamaha engines in order to smuggle to Sri Lanka for LTTE.

The following accused are involved in this case

- (1) Vetriselvan @ Jayaselvam @ Sri(42) s/o. Vetri Arasu, Kalyani Thottam, Colombo-6
- (2) Arivu @ Kiridoss (34) s/o. Ayyadurai, Kali Kovilady, Koppai Mathi, Koppai, Jaffna, Sri Lanka
- (3) Kumaragurubaran (28) s/o. Ranganathan, No. Q-7, 3rd Floor, B.S.N.L. Staff Quarters, Taylors Road, Kilpauk, Chennai - 10
- (4) Jayaseelan @ Jaicy (35) s/o. Elango, No. 144, M.K. Thottam, Chidambaram, Cuddalore district
- (5) Samidurai @ Durai (32) s/o. Pandi, No. 1/3, North Street, Pandiyur, Nainarkoil PS limits, Ramanathapuram district
- (6) Ramesh (37) s/o. Athimoolam, No. 4/920, Fish Market Bazaar, Uchipuli, Ramanathapuram district
- (7) Manamohan (28) s/o. Mahadevan, Thalaimannar, Pesalai, Mannar district, Sri Lanka

In this case, charge sheet was filed before the JM, Aranthangi on 6.11.2009 and taken on file in CC No. 323/2009 on 11-11-2009. Copies were furnished to the accused on



29-3-2010 and the accused were questioned on 31-3-2010. Two accused (Sri Lankan Tamils) viz., (1) Arivu @ Kiridoss and (2) Manamohan were convicted by JM Court, Aranthangi on 5-4-2010, were sentenced to undergo imprisonment in CC No. 323/2010 as detailed below :

A2 Arivu @-(1) RI for 2 years and fined Rs.100 u/s. 120(b) IPC.

Kiridoss (2) RI for 2 years and fined Rs.100/- u/s. 13(2) of the Unlawful Activities (Prevention) Act, 1967.

(3) RI for 2 years and fined Rs.100/- u/s. 14 of Foreigners Act, 1946.

A7 Manamohan-(1) RI for 2 years and fined Rs.100/- u/s. 120(b) IPC

(2) RI for 2 years and fined Rs.100/- u/s. 13(2) of the Unlawful Activities (Prevention) Act, 1967.

Both the accused paid the fine amount and underwent the sentence.

17. It has also been pointed out that, in addition to the details referred to above, the following cases including those coming under the ambit of TADA Act, Unlawful Activities (Prevention) Act, etc. are still alive and in many cases, some of the accused who are members of LTTE, Tamilar Pasarai, Tamil National Retrieval Troop and Tamil Nadu Liberation Army are still at large and efforts are still on to secure them. These cases are as follows :

- (i) Ammapet PS Cr.No. 429/94 u/s. 120(B), 302, 307, 114, IPC Sec. 3 and 5 of Explosives Substances Act, 1908, Sec. 25(1) (a) Arms Act, 1959, Sec. 3 r/w 6(1)(A) of Indian Wireless Telegraphic Act, 1933, Sec. 3(2)(1) and (ii) 3(3), 3(4) and 5 of TADA(P) Act, 1987. (PT)
- (ii) Chintadripet PS CR.No.354/95 u/s. 223, 224, 34, 109 IPC and Sec. 14 r/w 3 and 4 of Foreigners' Act, 1946. (LTTE)
- (iii) Andimadam PS Cr.No. 234/97 u/s.120(B), 147, 148, 450, 332, 395, 397 IPC r/w Sec. 4 & 5 of Explosive Substances Act, 1908 and Sec. 3(1) of Tamil Nadu Public Property (Prevention of Damages and Loss) Act, 1992. (TNLA)
- (iv) Manamelkudi PS Cr.No.161/96 u/s. 7 of Arms Act r/w 25(1) (c) Arms Act, Sec.13 of Unlawful Activities (Prevention) Act r/w Sec.12 of Indian Passport Act @ 120(B) IPC, 13(2) Unlawful Activities (Prevention) Act, Sec. 25 (1)(A) of Arms Act r/w 7 of Arms Act, 1959. (LTTE)
- (v) Vellore North PS Cr.No. 889/95, u/s. 224, 225 @ 120(B) IPC, 109 IPC, r/w sec. 14 of Foreigners Act. (LTTE)
- (vi) Dindigul Taluk PS Cr.No. 1212/91 Sec. 3 to 6 of TADA Act. (TNRT)
- (vii) B3 Fort PS Cr.No.160/90 (TADA Act) (Tamilar Pasarai)

(viii) Chennai City R-2 Kodambakkam PS Cr.No. 1205/90 u/s. 120(B) and 302 IPC r/w Sec.3 of TADA Act. (LTTE)

18. The affidavit further states that apart from the above political/pro-LTTE support base, the clandestine support base involving SLT (Sri Lankan Tamil) refugees and local Indians are established by their activities of smuggling goods for LTTE. The State Police have detected cases of smuggling falling under the Unlawful Activities (Prevention) Act and such other laws in force. A brief description of some of the cases, as given in the affidavit of PW-1, is as follows :

#### MADURAI CITY 'Q' BRANCH, CID. CR. NO. 2/2008

On information that certain items were being smuggled to Sri Lanka for LTTE, 'Q' Branch, CID of Madurai City conducted a vehicle check on Raja Mills Road, Madurai on 18-5-2008. At 13.00 hrs, they intercepted a Tata Sumo vehicle bearing registration No. TN-69-F-3399 and found two Sri Lankan Tamils and a local, namely, (i) Jayaraj @ Viji (28) s/o Palani, Siruthoppu, Pesalai, Mannar and (ii) Padmaraja @ Chinnavan (27) s/o Thangaraja, Bharathi Street, Sanganai, Jaffna and the local (iii) Senthil Kumar @ Senthil (27) s/o Shanmugam, No.54, Kasthuribai Nagar, Sathiyamurthy Road, Madurai-16, in the vehicle. They were in possession of 44 walkie-talkie sets (Icom VHF Transreceivers) and cash Rs. 4,59,000/-. The above three persons were arrested and the properties seized. In this connection, a case in Madurai City "Q" Branch, CID Cr. No. 2/2008 u/s. 120 (b) IPC r/w Sec.10 and 13 (1) & (2) of the Unlawful Activities (Prevention) Act, 1967 r/w Sec.14 of Foreigners Act, 1946 has been registered. During investigation, on the confessional statement of driver Senthilkumar, five plastic cans, each containing 35 litres, of resin were seized from his house.

Investigation revealed that Jayaraja @ Viji is a native of Pesalai, Mannar. He and his family members came to India in 1983 as refugees. Later they left for Sri Lanka by ship. Again, in 1990, he and his family members came to Mandapam as refugees. In 1999, he along with his elder brother murdered his brother in-law Sahayaraja. But the case was acquitted in 2003. In the meantime, in 2002, he was involved in a case of attempt to murder in Avaniapuram PS in Madurai district in Tamil Nadu. In 2004, he assaulted his associate Ashokkumar with knife and a case was registered in Melur. In both the cases he absconded and NBWs were pending. During this period, he came into contact with LTTE smugglers Sasi and Padmaraja and procured detonators and other essential items for them and smuggled to Sri Lanka from Uchipuli seashore. In January 2002, he procured 1.5 lakhs detonators worth about Rs. 3 lakhs from a Kerala Muslim and also procured iron balls along with Sasi and Padmaraja and sent them to Sri Lanka. Sasi was killed by Sri Lankan Navy while transporting the smuggled items. When the Kerala Muslim cheated him to the tune of Rs. 3 lakhs without supplying

4566 GI/10-3

materials, he assaulted him in 2002. Hence, at the instance of the said Kerala Muslim he was arrested by Kerala police for possession of 1000 detonators and a case registered in Trivandrum. Later he came out on bail. He and Padmaraja were staying at Raja Lodge on a monthly rent for the preceding one year and was doing paint work and at the same time, smuggling goods for LTTE from Uchipuli coast. LTTE Ravi contacted him over cellphone. Later Viji met Ravi at Uchipuli and as per his request Viji started procuring explosive items and smuggling them to Sri Lanka. He came into contact with driver Senthilkumar of Karimedu, Thangapandi of Ponnagaram, Ranga of Karuppayurani and Auto Kannan. With their assistance Viji procured detonators and smuggled them to Sri Lanka. He used the Tata Sumo of Senthilkumar and Auto Rickshaw of Kannan for his smuggling activities. Ravi ordered for resin and 50 GPS. Viji procured GPS from Xavier of Thoothukudi, who was having an electronic repair shop. However the 50 GPS were thrown into the sea, when the navy approached the boat of Ravi. Ravi informed that Xavier would give 50 walkie talkie sets. Padmaraja collected Rs. 5 lakhs sent by Ravi through hawala channels in Chennai. Viji along with Senthilkumar and Padmaraja collected 44 walkie talkies from Xavier. Jayaraj @ Viji was concerned in Samayanallur PS Cr. No. 1399/99 (murder case-acquitted), (ii) Avaniyapuram PS Cr. No. 521/02 (attempt to murder case) and (iii) Melur PS Cr. No. 95/04 (assault case) Accused Kannan (28) s/o Andithevar, No.14, Manjal Road Cross Street, Arapalayam, Madurai -16, was arrested on 24-5-2008.

#### **RAMESWARAM TOWN PS CR. NO. 152/2008**

The Rameswaram Coastal Security Group personnel, while on patrol duty at Sangumal seashore on 22-5-2008 night arrested six persons (3 Sri Lankan Tamils and 3 Locals). Enquires revealed that Saveenappar and Alexander were LTTE drop outs and acting as agents for smuggling contrabands to LTTE in country boat TN-10-WV/1551 purchased through Kaspar for Rs.1,20,000/-. Udayaseelan of Sri Lanka, Kaspar of Rameswaram, Yakoob of Karankadu and Selvam of Madurai were assisting them in smuggling contrabands to LTTE. They were handed over to Rameswaram Town Police Station. A case in Rameswaram Town PS Cr. No.152/2008 u/s. 13 (1)(2) Unlawful Activities (Prevention) Act, 1967 and 5 (1)(b) Foreigners Order 1948 r/w 14 of Foreigners Act 1946 and 12 of Passport Act, 1967 was registered on 23-5-2008.

#### **TIRUNELVELI 'Q' BRANCH, CID CR. NO. 1/2008**

On information collected by the 'Q' Branch police, Ravi, No.65 VGP Murphy Nagar, NGO-A Colony, Palayamkottai, Tirunelveli, now residing at Parsen Apartments, Zackariya Colony, Choolaimedu, Chennai was arrested at Tirunelveli at 1530 hrs on 4-6-2008 and 13 rounds of 9mm pistol with ammunition were seized from him. In this connection, a case in Tirunelveli 'Q' Branch CID.Cr. No.1/2008 u/s. 25(1-B) r/w 7 of Arms Act, 1959 was registered. Ravi was already involved in a Narcotic case

and was in prison for about one year. On information furnished by Ravi, 'Q' Branch police also seized a consignment containing plastic granules, motor coils, coil winding machine and Eveready cells from ARC Parcel Service, Paramakudi dispatched to one Abdullah of Paramakudi for smuggling the same to Sri Lanka. Enquiries from accused Ravi disclosed that he developed contacts with a Sri Lankan Tamil Dillo, who was earlier arrested and detained in Madurai Central Prison. Further that in the end of March 2008, Sudha, a Sri Lankan Tamil contacted him over phone on the introduction of Dillo and Sudha informed that one Pradeepan from Singapore would send 20 walkie talkie sets by Sea Cargo to Chennai and requested Ravi to clear the delivery of the Cargo. Ravi through his friend Sulthan of Agriculture Enterprises, Vanniyar Street, Opp. to High Court, Chennai sent the Export TIN No. 33840060206 to Pradeepan in Singapore. After one week, Pradeepan informed Ravi that he had sent the Cargo and that it had reached Chennai Harbour and requested him to clear it. Ravi, however, could not clear the Cargo, as he was not in possession of the original documents of the Cargo. It is learnt that the walkie-talkie sets (20) reached Chennai Harbour from Singapore probably in March-April 2008 and were lying as uncleared Cargo. All the three were arrested (Ravi, Pandiyarajan and Jagan) Murugesan (39) S/o Sudalaikannu, an absconding accused was arrested at Palayamkottai on 15-7-2008 and R. Selvaraj @ Selvam S/o Raman Nair, 30/B4, Anna Nagar 3rd Street, Thoothukudi was arrested on 7-1-2009. During investigation, Sections 120(B), 409 & 381 IPC and Sec. 10, 13(1)(2) of Unlawful Activities (Prevention) Act, 1967 have been invoked in the case since the activities were meant for LTTE.

#### **MANDAPAM PS CR. NO. 90/2008**

The Ramanathapuram 'Q' Branch Police, while on patrol duty at Ayyanar Koil Seashore, Mandapam on 5-6-2008, arrested two persons. Enquiries revealed that Madhankumar came to Mandapam as refugee on 10-9-2007 and was transferred to Vedarcolony settlement in Coimbatore district. He purchased 2000 Eveready Pen torch cells at Mettupalayam and Coimbatore with a view to smuggle the same to Sri Lanka. He is already known to one Mohammed Kasim of Pamban. He requested Mohammed Kasim to arrange for a boat to leave for Sri Lanka illicitly along with the battery cells. On 5-6-2008, when both of them were waiting for the boat, Police arrested them. 2000 Eveready Pen torch cells, and two cell phones were seized from them. In this connection, a case in Mandapam PS Cr. No. 90/2008 u/s. 10 Unlawful Activities (Prevention) Act, 1967 and 3 r/w 12 (2) of Passport Act, 1967 and Sec.14 of Foreigners Act, 1946, was registered.

#### **DEVIPATTINAM PS CR. NO. 79/2008**

On specific information, Ramanathapuram 'Q' Branch CID arrested one Sri Lankan Tamil Vijay (23) S/o Francis, Pesalai, Mannar, when he along with others were loading contraband in a Sri Lankan plastic boat with 2 OBMs (Divya)

to smuggle to Sri Lanka on the seashore 1 km north of Devipattinam PS on 14-6-2008 and seized 18000 pen torch cells, beedi bundles and clothes etc. Another Sri Lankan Tamil Razaak Nazeer @ Ajmi was arrested on 16-6-2008. Accused Rajagopal of R.S. Mangalam was arrested on 18-6-2008. In this connection, a case in Devipattinam PS Cr. No. 79/2008 u/s. 10 (1)(2) of the Unlawful Activities (Prevention) Act, 1967 and Rules 3 (a) r/w 6 (a) of Passport (Entry into India) Rules, 1950 and Sec.14 of Foreigners Act, 1946 was registered.

#### **THIRUPPALAIKKUDI PS CR. No. 76/2008**

The Ramanathapuram 'Q' Branch personnel, while patrolling at Thiruppalaikkudi seashore on 19-6-2008, arrested two Sri Lankan Tamils viz. Muruganandam (31/08) S/o Nagasamy, Thalaimannar Station, Mannar District, Sri Lanka and Sekar (28/08) S/o Rajadurai, Thalaimannar Station, Mannar District, Sri Lanka and seized resin and chopped strained mats etc., Enquiries revealed that on the advice of one Raj and Sathish of LTTE, the above Two Sri Lankan Tamils left Pesalai on 14-6-2008 in a plastic boat and reached Thangachimadam on 15-6-2008. They stayed at Madurai in a lodge, where two unidentified locals contacted them and asked them to go over to Devakottai. At Devakottai the same two locals met them with the above contrabands in a TATA ACE Van and proceeded along with them to Thiruppalaikkudi seashore with a view to smuggle the same to Sri Lanka. Then they left the Sri Lankans and went away. When the Sri Lankans were awaiting a boat at the seashore, they were arrested by Police. In this connection, a case in Thiruppalaikkudi PS Cr. No. 76/2008 u/s. 13(1)(2) of Unlawful Activities (Prevention) Act, 1967 and 3 (a) r/w 6 (a) Passport Act (Entry into India) Rules 1950 r/w 14 of Foreigners Act, 1946 was registered.

#### **SAYALKUDI PS CR. No. 111/2008**

On specific information, 'Q' Branch CID, Ramanathapuram, while patrolling at Narippaiyur Vattatharavai in Sayalkudi PS limits, Ramanathapuram district at 0500 hrs on 3-7-2008, intercepted a Mahendra Seater Van bearing registration No. 69 W 5045 and found 7 persons [including 2 Sri Lankan Tamils viz., (i) Selvakumar @ Sudhakar S/o Muniyandi @ Somu and (ii) Jayadasan @ Sankar S/o Ramuvault] and 23 plastic cans of resin (each weighing 35 Kgs.) meant for smuggling to LTTE in Sri Lanka. A case in Sayalkudi PS Cr. No.111/2008 u/s. 13 (1)(2) of Unlawful Activities (Prevention) Act, 1967 was registered. Subsequently, 8 locals were arrested. Later, Sri Lankan Tamils (i) Selvakumar @ Sudhakar S/o Muniyandi @ Somu and (ii) Jayadasan @ Sankar S/o Ramuvault were lodged in Chengalpattu Special Camp.

#### **PUDUKOTTAI 'Q' BRANCH CID CR. No. 1/2008**

The 'Q' Branch CID, Pudukottai, on information enquired one Kumaragurubaran (28) S/o Rajendran, Q7, 3rd Floor, BSNL Officers Quarters, Tailors Road, Chennai -10

who was standing at the bus stand at Kattumavadi, Manamelgudi PS limits, Pudukottai at 0630 hrs. on 22-7-2008 and came to know that he along with one Ramesh and a Sri Lankan Tamil Manamohan brought 5 OB engines (imported from Japan) from Chennai to Kattumavadi seashore and hid them for smuggling to Sri Lanka for LTTE. Based on his information, one Ramesh (37) S/o Athimoolam, Chettiyamadai, R.S. Mangalam, Ramanathapuram and Manamohan (28) S/o Mahendran, Pesalai, Sri Lanka were secured at 0820 hrs. near Ramanatha Swamy Temple, Kattumavadi seashore and on their information 5 OB engines (worth about 7 lakhs) which were hidden in a nearby bush were seized. All the above three were arrested. Investigation disclosed that these engines were purchased and sent by one Arivu @ Grithas of Sri Lanka, settled in Chennai. In this connection, a case in Pudukottai 'Q' Branch CID. Cr. No. 1/2008 u/s.120(B) IPC, 10, 13(1)(2) of Unlawful Activities (Prevention) Act, 1967 and Section 14 of Foreigners Act, 1946 was registered. On the further follow up, the Sri Lankan Tamil, Arivu @ Grithas was also arrested at TVS Toll Gate bus stop (TRI) on 25-7-2008. One Sri Lankan passport, two cell phones and a computer were seized from the house at 8/10, Srinivasa Nagar, Trichy and sent for remand. He admitted to the purchase of the above engines and sent it to the shore to smuggle to LTTE in Sri Lanka. In his case, accused Samidurai @ Durai (32) S/o Pandi, North Street, Pandiyur, Nainar Koil via, Paramakudi TK., Ramanathapuram district was arrested at Pudukottai Town near Govt. Woman Arts College on 25-8-2008 at 06.00 hrs. On his confession, two separate purchase bills of five Yamaha 40 HP Outboard engine issued in the name of accused Kumaragurubaran by George Maijo Industries Private Limited, Chennai dated 2-7-2008 and 19-7-2008 for a sum of Rs. 7,03,125 were seized from him under a mahazar. In toto, 7 accused were arrested in this case. The case ended in conviction for two accused viz. Arivu @ Kiridoss and Manamohan on 5-4-2010. The other 5 accused concerned in this case are facing trial.

#### **KEEZHAKKARAI PS CR. No. 182/2008**

The Devipattinam Coastal Security Group Police, while on patrol at 01.40 hrs on 24-7-2008 near Kannadi Appa Dargah in Keezhakkarai, seized 43 beedi bundles in a grove, meant for smuggling to LTTE in Sri Lanka and arrested four locals. In this connection, a case in Keezhakkarai PS Cr. No.182/2008 u/s. 13 (1)(2) Unlawful Activities (Prevention) Act, 1967 was registered.

#### **ERWADI PS CR. No. 190/2008**

Erwadi Police made seizures said to be for smuggling to Sri Lanka for LTTE, from an abandoned country boat RMD 5468 on 28-7-2008. In that boat 21 trawls, 230 Nos. of Yamaha NGK sparkle plugs, Yamaha engine boat oil seal-2 Nos. satellite phones-3, condensers-2, camelion 4 LR 6 TO 502 batteries-384, AA 4 Pack camelion batteries -1780, Yamaha wire kit-3, Lenin Revolution story Tamil VCD-1 were kept in the trawlers. No one was arrested in this case.

In this connection, a case in Erwadi PS Cr. No.1 90/2008 u/s. 13 (1)(2) of Unlawful Activities (Prevention) Act, 1967 was registered.

#### **THIRUPPALAIKKUDI PS CR. No. 89/08**

The Thiruppalaikkudi Police, while patrolling at Uppur on 29-7-2008, intercepted a Maruti Omni Van TN 45 AJ 3363 and arrested four Sri Lankan Tamils viz., 1. Vijayaneethan @ Naveen S/o Sivasekaran, 2. Ramanan S/o Gunaseelan, 3. Sivaram S/o Sivakadaksham and 4. Vaksananthan @ Vasi S/o Sivakumar, and pen torch cells, GPS, Life jacket, etc. were seized from them. In this connection, a case in Thiruppalaikkudi PS Cr. No. 89/08 u/s. 13 (1)(2) Unlawful Activities (Prevention) Act, 1967 and 3 (a) r/w 6 (a) Passport (Entry into India) Rule 1950 and 15 of Foreigners Act, 1946 was registered. The accused were remanded. The accused Krishnaneethan @ Rathan @ Nixon (Sri Lankan Tamil) S/o Sivasekaran was arrested on 3-8-2008. The above five Sri Lankan Tamils were lodged in Chengalpattu Special Camp u/s. 3(2)(e) of Foreigners Act, 1946 after their release on bail.

#### **UCHIPULI PS CR. No. 239/2008**

The Uchipuli Police seized 25 plastic cans of acetic acid (750 litres) at Thoppuvalasai on 31-7-2008. In this connection, a case in Uchipuli PS Cr. No. 239/2008 u/s. 102 Cr. PC @ u/s. 13(1)(2) of Unlawful Activities (Prevention) Act, 1967, Sec. 14 of Foreigners Act, 1946 was registered. Seven persons (5 Sri Lankans and 2 Indians) were arrested on 8-8-2008 for conspiring and attempting to smuggle the acetic acid to Sri Lanka for LTTE.

#### **CHENNAI CITY 'Q' BRANCH CID. CR. No. 2/2008**

A Sri Lankan Tamil, Selvam @ Selvakumar (29) S/o Perumal, Thirunagar, Kilinochchi, was arrested at Madipakkam, Chennai on 4-8-2008 for being in possession of an electronic circuit box for smuggling to Sri Lanka meant for LTTE. Two power stations, 2 nano stations, 9 Internet phone adaptors, etc. were seized from his room at Dhandapani Building, Suseela Nagar, Kelampakkam, Chennai. In this connection, a case in Chennai City 'Q' Branch CID Cr. No. 2/2008 u/s. 120(B) IPC r/w. 10 and 13(1) and (2) of the Unlawful Activities (Prevention) Act, 1967, 12(1)(d) of Passport Act has been registered. Selvam was remanded to judicial custody in Central Prison, Puzhal, Chennai. Later, he was lodged in Chengalpattu Special Camp under Section 3(2)(e) of Foreigners Act, 1946. The case is PT.

#### **THIRUMANGALAM PS CR. No. 527/2008**

Two Sri Lankan Tamils viz : Uma Ramanan @ Ramanan (23) S/o Kandasamy, Palali South, Jaffna, Sri Lanka and Amalan @ Vasanthan (29) S/o Appudurai, Avarangal, Pudur, Jaffna, Sri Lanka were arrested at No. 22/16, Thiruvalléeswaram Nagar, Ilangovan Street, Thirumangalam, Chennai on 5-8-2008, for being in possession of dry cell batteries-68, Starter plugs-20 and Yamaha engine oil seal for smuggling to LTTE in Sri Lanka.

They were in possession of Pottasium Nitrate (1 Kg.) as samples. In this connection, a case in Thirumangalam PS Cr. No. 527/2008 u/s. 10 & 13(1) & (2) of Unlawful Activities (Prevention) Act, 1967 was registered. They were lodged in Chengalpattu Special Camp u/s. 3(2)(e) of Foreigners Act, 1946, after their release on bail.

#### **KEEZHAKARAI PS CR. No. 197/2008**

Two local persons Paulraj (29) S/o Selvaraj and (ii) Sakthivel S/o Selvaraj of Sivagamipuram, Keezhakarai, Ramanathapuram district were arrested on 27-8-2008 for being in illegal possession of 1 Kg. Ketamine and ½ bundle of beedies, meant for smuggling to Sri Lanka for LTTE. A case in Keezhakarai PS Cr. No. 197/2008 u/s. 13(1)(2) of the Unlawful Activities (Prevention) Act, 1967 was registered.

#### **KEEZHAKARAI PS Cr. No. 210/2008**

A Sri Lankan Tamil Jeevan Yustin (25) S/o Saveriyar Raja (IC No. 9242) of Kottapattu Refugee Settlement (Trichy) and a local Muniyandi (54) S/o Muthandi, Seeniyappa Dharga, Mandapam, Rameswaram, Ramanathapuram, were arrested at Otrai Poovarasu seashore, Keezhakarai on 15-9-2008, for trying to smuggle (i) Sony LCD 29" TV-1, (ii) "Pioneer" DVD-1, (iii) Dish Antennae set (1.2 NII), (iv) Dish Antennae stand-1, (v) Set top box-1, (vi) Wire-1 roll and cash Rs. 50,000 to LTTE in Sri Lanka through illicit boat. A case in Keezhakarai PS Cr. No. 210/2008 u/s. 13(1) and (2) of the Unlawful Activities (Prevention) Act, 1967 was registered.

#### **CHENNAI CITY 'Q' BRANCH CID. CR. No. 4/2008**

A Sri Lankan Tamil, Amir Anthony Paranthaman (32) S/o Kumara Kulasingam, Thellipalai, Jaffna, presently residing at No. 3, South Mada Street, Madampakkam, Chennai-73, was arrested by 'Q' Branch CID., Chennai City at Tambaram bus stand (CNI) on 27-12-2008, for possession of a satellite phone to be smuggled to LTTE. During interrogation, he revealed that he possessed the satellite phone to communicate with LTTE members in Switzerland. Anthony who is running two taxis in Chennai, has been acting as an agent for LTTE for transporting things to LTTE that are received from Switzerland. Anthony has also received 8 GPS, 3 satellite phones and 2 cell phone repeaters from Rom @ Johnson and Suganthan (Sri Lankan Tamils) living in Switzerland through an unknown person and another consignment of 1000 kgs. of Ammonium Nitrate through a person. Investigation revealed that the 500 kgs. of Ammonium Nitrate were already sent to LTTE by Anthony. All materials including the remaining 500 kgs. of Ammonium Nitrate were seized and the accused was sent for remand. A case in Chennai City 'Q' Branch CID. Cr. No. 4/2008 u/s. 120(b) IPC, 10, 13 (i) and (ii) of the Unlawful Activities (Prevention) Act, 1967 was registered. A Sri Lankan Tamil, Thileeban (28) S/o Krishnamurthy, Urumbirai, South, Jaffna, an absconding accused in this case, was arrested at Chennai on 30-12-2008 and 3 satellite phones were seized from his possession. He was produced

before JM Court, Alandur and lodged in Central Prison, Puzhal.

#### MANDAPAM PS.CR.NO.35/2009

On 21-2-2009, a boat carrying thirteen Sri Lankan Tamil refugees arrived at Rameswaram. Enquiry revealed that on the instruction of one Sri Lankan boat owner Nelson, Sahaya Robert Cruz and Oscan (Sri Lankan boat drivers) brought 13 Sri Lankan Tamil refugees from Sri Lanka and dropped them at Kunthukkal Vivekanandar Mandapam seashore on 21-2-2009. Due to technical snag of the OBM engines of the boat near Thangachimadam Naduthurai coastal area, they removed the OBM engines and hid them in casuarinas grove, Kazarpadu. Later, they met Sathiya and Satheeshkumar of Mandapam refugee settlement and requested them to arrange for their return to Sri Lanka. During the course of investigation, (i) Sahaya Robert Cruz S/o Anthony, Thalaimannar, (ii) Satheeshkumar S/o Thiyagaraja, Mandapam refugee settlement, (iii) Antony Markas S/o Benatic, Mandapam refugee settlement were arrested in the hut of Antony Markas at Erumaitharavai near Thangachimadam. One bag containing 100 slurry explosive and another bag containing 300 metres of detonating fuse were seized from them. 2 OBM engines were also seized from casuarina grove, Kazarpadu. They have planned to smuggle the above contrabands to LTTE in Sri Lanka. Sathiya @ Clintta S/o Antony, Mandapam refugee settlement (friend of Oscan and boat driver) was arrested on 2-3-2009. In this connection, a case was registered in Mandapam PS.Cr.No.35/2009 u/s. 5(a) of Explosive Substances Act, 1908 and Sec 3 r/w 12(1)(a) Passport Act, 1967 and 13(1)(2) of Unlawful Activities (Prevention) Act, 1967, 3 r/w 6(a) Passport (Entry into India) Rules, 1950.

#### RAMANATHAPURAM 'Q' BRANCH CID. CR. NO. 1/2010

On information, 'Q' Branch Police Personnel of Ramanathapuram were watching near Vallal Seethakathi Arch Entrance, near Keelakarai Road Junction and intercepted a TATA Indica car bearing Registration No. TN-65-J-3370 at 1400 hrs. on 26.1.2010 and arrested four locals viz., (i) Selvakumar (27) S/o. Ramu Nadar, Kizhakkukaraitheru, Rameswaram, (ii) Palanikumar (26) S/o. Murugesan, Annai Sivakami Nagar, Rameswaram, (iii) Kaleel Rahman (39) S/o. Mohideen Sahib, 5/14, Paruthikaratheru, Keelakarai and (iv) Raja (25) S/o. Murugesan, Annai Sivakami Nagar, Rameswaram, Ramanathapuram district and seized 500 gms of heroin, cash Rs. 8 lakhs and cell phones from their possession. Their Indica car was also seized. Following their interrogation, police also seized a satellite phone and three magazines filled with 22 cartridges of 9mm caliber, kept buried at Selvakumar's Fish Company, East side of Rameswaram Telephone Exchange said to have been given by one Narmadan (LTTE) to Selvakumar. The country Vallam (TN 10 WV/119), used for human trafficking from

Sri Lanka, was also seized. In this connection, a case in Ramanathapuram 'Q' Branch CID. Cr. No. 1/2010 u/s. 8 (C) r/w 21(b) of NDPS Act, 1985, Section 3 r/w. 25(1-B)(a) of Arms Act, 1959 and Section 13(1)(2) of Unlawful Activities (Prevention) Act, 1967, was registered. In this case, Narmadan @ Madan @ Shankar (31) S/o. Navarathinam, Brownroad Kandarmadam, Jaffna, Sri Lanka was arrested in front of Mandapam Refugee Settlement at 2300 hrs. on 28-1-2010 and a GPS was seized. A Sri Lankan Tamil, Nandakumar @ Kumar @ Aruviral Nanda (30) S/o. Raja, Pesalai, Mannar, Sri Lanka, was arrested near Mandapam Railway gate (RMD) on 13-2-2010. He was not found in possession of any valid travel documents to stay in India. Following his confession, another Sri Lankan Tamil, Selvam @ Chelian @ Sudhakar (34) S/o. Arulanandam, Mylatty North, Jaffna, Sri Lanka, residing at Mettupatty Refugee Settlement, Namakkal district was arrested along Othapanai seashore, Marakayarpattinam, Ramanathapuram district on 13-2-2010 for helping LTTE and involving in smuggling. Interrogation of the four local accused revealed that Selvakumar was contacted by the LTTE agents Nanda @ Nandakumar and Selvam @ Sudhakar to help them to ferry a Sri Lankan from the mid-sea to Rameswaram during July 2009. He readily accepted the offer for a big sum of Rs. 30,000 and accordingly he ferried one person, later identified as Poonguil, an LTTE cadre, to Rameswaram. Poonguil developed contacts with Selvakumar and got seven more persons landed at Rameswaram Island through mid sea transshipment. All the eight persons ferried by Selvakumar, were suspected to be LTTE cadres.

19. The Affidavit further goes on to state that there have been instances in which the pro-LTTE organizations in India have threatened the sovereignty and territorial integrity of India amounting to cession and secession of Tamil Nadu from the Indian Union by their virulent speeches between 14.5.2008 and 13.5.2010. Some of the instances given in the affidavit of Mr. M. Ashokkumar are as under:

- (i) A public meeting (100) under the caption "Eelam burns" was organized by Periyar Dravidar Kazhagam at Dindigul town on 26.2.2009, in which Kolathur Mani was the prominent participant. Kolathur Mani, in his speech, stated that the prevailing situation in Sri Lanka has evoked sympathy in the hearts of people. The Tamils in Sri Lanka should get equal rights. It is incorrect to view the Sri Lankan Tamil issue as "before Rajiv Gandhi and after Rajiv Gandhi". Sri Lankan Tamils were killed even before the assassination of Rajiv Gandhi. Hence, this issue should have been viewed as "before IPKF and after IPKF". As per the India-Sri Lanka pact, Prabhakaran accepted to surrender arms at Surumalai. While delivering his speech before surrendering arms, Prabhakaran stated that armed struggle is not their desire but they have no other option. Kolathur Mani also stated that Harihara Singh (Harkrit Singh), who

4566 GI/10-4

headed the IPKF, has written a book, in which he has stated that the Indian Government urged the LTTE to surrender the arms and assured security to Tamils over there. But, large quantity of arms were handed over to EPRLF, a rivalry to LTTE, in spite of the author's objections. It was also assured in the pact that all militants would be pardoned and all political prisoners would be released. But LTTE leaders Pulendran and Kumarappa committed suicide by consuming cyanide when they were arrested. Once Rajiv Gandhi stated that the aftermaths of Indira Gandhi Assassination cannot be avoided when a leader like her is murdered. Hence, he (Kolathur Mani) questioned whether assassination of Rajiv Gandhi is an offence, when leaders like Pulendran and Kumarappa died. He further stated that the Sikh community people have justified the assassination of Indira Gandhi since she permitted army to enter into the Golden Temple. Both Rajiv Gandhi and Rahul Gandhi apologized to the Sikh people for having sent Army to Golden Temple. The LTTE have stated that Rajiv's assassination is an unfortunate incident. Whether LTTE was involved or not, is not known. If they were involved, it is appreciable and not involved, it is condemnable. As per the book of Harihara Singh (Harkrit Singh), former Lt. General of IPKF, he was instructed by Dikshit to kill Prabhakaran when he comes for talks, but, he refused to do so. Most of the murders were for self defense. Prabhakaran is portrayed as a terrorist by the Government and urges for a political resolution in Sri Lanka, which is not possible. Neither the Central Government nor the State Government has condemned the killings of Indian fishermen. Eelam Tamils are safe in the hands of LTTE. He further urged the people to vote for only those who support Eelam Tamils and also demanded to lift the ban on LTTE, to recognize separate Tamil Eelam, not to provide military assistance to Sri Lanka, etc. He also stated that racial killings are termed as international crime and India should not support the same. In this connection, a case in Dindigul Town North PS. Cr. No.352/2009 u/s. 153(A), 505(1)(b) IPC r/w 13(1)(b) of Unlawful Activities (Prevention) Act, 1967 was registered against T.S. Mani @ Kolathur Mani for delivering seditious speeches. He was arrested at Mettur, Salem District on 2.3.2009. He was detained under NSA on 10.3.2009. However he was released from NSA on 30.4.2009...."

- (ii) On 19.10.2008, a public meeting was held by 'Tamil Thiraiulaga Tamilina Unarvu Kuzhu' at Rameswaram bus stand, Ramanathapuram district. Cine directors Seeman Sevanthi and Ameer Sulthan, who participated in the meeting delivered speeches supporting the Unlawful Activities of LTTE and against the sovereignty, security and integrity of

the Indian Nation and causing disharmony among various sections of people of India. In this connection, a case in Ramanthapuram 'Q' Branch CID Cr.No.3/2008 u/s 13(1)(b) of Unlawful Activities (Prevention) Act, 1967, Section 124-A and 153A 1(a)IPC was registered against them. During the course of investigation, A1 Seeman Sevanthi (39) S/o Sevanthi, 29, Venkatesa Nagar, Valasarawakkam, Chennai-87 and A2 Ameer Sulthan (42) S/o Ismail, 29, Venkatesa Nagar, Valasarawakkam, Chennai-87 were arrested in Chennai on 24.10.2008 and sent for remand. Seeman and Ameer released on conditional bail on 31.10.2008. Seeman in his speech has stated that ".....whenever Tamils get attacked it is non violence, but if at all the Tamils attack, is it terrorism? Why did the people who speak about National sovereignty now, has kept quiet when Bangladesh was separated from Pakistan? Pakistan was separated from India because of religion and Bangladesh was separated from Pakistan because of language. That is the same for us. Singhalese is different from us by the race, caste, language, religion and heredity. Hence what is wrong in us asking for a separate country? Why India is blocking? India, which has different languages, different states is linked because of a thread called integration. Now it is being pulled and they fear of the cut. Your National Language is Hindi and your National Anthem is Bengali. This is a shame for your racial children. If 'Tamil Ezham' is attained, the National Anthem would be sung in your mother tongue, 'Tamil'..... Since because they did not even cried for the death of the fishermen, the Tamil sovereignty has born at the place of his death. This is the fact. We have not asked, you have only given....." Cheran in his speech has stated that "...If this situation continues, then Tamil Nadu would be separated from India and become a separate Nation, for which organizations are ready.....".

20. The affidavit further mentions that the day-to-day incidents that had happened in Sri Lanka during the relevant period, that is from May 2008 onwards, will speak about the potency of LTTE, and that the organization is most lethal and well organized. No other terrorist outfit which is fighting for their liberation has got a military force with Army, Navy and Air Wings like LTTE. Apart from these, the LTTE had strong suicide squads called 'Black Tigers' that could be used to achieve anything in the world. Some of the instances given in the affidavit of Mr. M. Ashokkumar are as under:

- (i) **Bomb explosion targets Police bus in Colombo, 10 killed, 95 wounded (Tamilnet)**

A three-wheeler fitted with a bomb rammed into a bus carrying riot control police personnel on Lotus Road inside the High Security area near the Hilton Hotel, few hundred meters away from the Sri Lankan Presidential

Secretariat, on 16-5-2008, killing 10 persons, 7 policemen and 3 civilians, and injuring 30 policemen and 59 civilians. The policemen were on their way to provide additional security as the swearing-in ceremony of the Eastern Province Chief Minister on 16-5-2008. Sivanethurai Chandrakanthan @ Pillaiyan, the de-facto leader of the TMVP, also known as Pillayan Group, was scheduled to be sworn in as the Chief Minister of the Eastern Province.

**(ii) 18 wounded in Sri Lanka train bombing, say officials (ABC News)**

At least 18 people were wounded near the Sri Lankan capital on 4-6-2008 when suspected LTTE rebels set off a bomb alongside a packed commuter train, officials said. The bomb exploded between Colombo's Wellawatte and Dehiwela areas when the train was rolling past, police spokesman Ranjith Gunasekera said. "It is believed that the bomb had been triggered to target the Colombo-bound and highly crowded passenger train".

**(iii) 21 civilians killed, over 50 injured in cowardly terror attack—Moratuwa (defence.lk)**

LTTE terrorists have exploded a claymore bomb targeting a crowded public transport bus at Katubadda, Moratuwa on 6-6-2008 morning. According to the Defence sources, the roadside bomb placed at a location between Shailabimbaramaya Buddhist temple and the University of Moratuwa, the topmost Engineering University in Sri Lanka, has been exploded targeting a bus traveling from Kottawa to Mount Lavinia. The hospital sources said, 21 people have been killed, 13 males and 8 females, and over 50 injured in this cowardly terror attack.

**(iv) Motorcycle suicide bomber kills 12 police in Sri Lanka : officials (thaindian.com)**

A suspected LTTE rebel detonated explosives on his motorcycle outside a police office in northern Sri Lanka on 16-6-2008, killing at least 12 police personnel, including three female constables, officials said. Forty people, including school children, were also wounded in the attack staged directly in front of the office in Vavuniya town, a police official said. Vavuniya borders Tamil rebel-held territory further north of the island. The latest attack came as security forces stepped up pressure on the guerrillas inside their territory with air attacks and ground offensives.

**(v) Sri Lanka says Tamil Tigers have links to Al-Qaida (Indianwatchdogs.com and infolanka.com)**

Two senior officials of the Sri Lankan Defence Ministry on 2-8-2008 said the government has reason to believe that the Tamil Tigers have been in contact with other terrorist organizations in the region including al-Qaida. "We have come across some persons of different nations in the region" during operations against the LTTE, ministry spokesman Kehelna Rambukwella said.

**(vi) Air strike targeted SLN Eastern HQ—LTTE (Tamilnet)**

LTTE on 27-8-2008 claimed that the Air Tigers carried out a successful air strike on the Eastern Headquarters of

the Sri Lanka Navy located in the inner harbour of Trincomalee on 26-8-2008. At least 4 SLN sailors were killed and more than 35 wounded in the air strike, which inflicted heavy damage on the SLN base, the Tigers claimed. The aircrafts safely returned to their base after carrying out their mission, the LTTE said.

**(vii) LTTE explodes a parcel bomb in Pettah; 45 wounded —Colombo (facebook.com)**

Forty-Five civilians suffered injuries when the LTTE rebels exploded a parcel bomb in Olcott Mawatha in Pettah, a busy commercial area Colombo around 12.15 pm on 30-8-2008. The Director of the National hospital Colombo said few of the victims suffered severe injuries. Four females and two children were also among the victims. The bomb inside the parcel left near the wristwatch-selling outlet down Olcott Mawatha near the Bodirajaramaya Temple in Pettah had exploded, police sources said. Military spokesman Brig. Udaya Nanayakkara accused the LTTE rebels of setting off the blast. "They are desperate because of defeats along the northern front lines and are targeting civilians," Nanayakkara said.

**(viii) Explosion injures 4 in Sri Lankan capital (Topnews)**

At least four civilians were slightly injured when a civilian bus was exploded by suspected LTTE rebels in central Colombo 16-9-2008, defense officials said. The military said the explosion was another attempt by Tamil Tiger rebels to cause mayhem in the island's capital when they are facing fierce assaults by the security forces in the northern Kilinochchi and Mullaitivu districts.

**(ix) Minister escapes suspected LTTE assassination bid.**

A suicide bomber blew himself up targeting the motorcade of Agricultural Development Minister Maithiripala Sirisena at a traffic junction at Boralasgamuwa, about 10 km. east of Colombo, around 1.15 p.m. on 9-10-2008. The minister's vehicle escaped the blast and the minister has escaped unharmed. But one of his security back-up vehicles got caught in the blast. One security person got killed and three were wounded in the blast. Minister Sirisena is also the general secretary of the ruling Sri Lanka Freedom Party (SLFP) led by President Mahinda Rajapaksa. The blast took place barely an hour before the arrival of Palestine President Mahmoud Abbas on a two-day official visit to Colombo. President Abbas was scheduled to hold talks with Rajapaksa and government ministers.

**(x) Tamil Tigers claim air attack in Sri Lanka (Tamilnet)**

The LTTE officially claimed the air attack on the military headquarters in Thalladi in northwestern Mannar District and the Kelanitissa power station in Colombo on 28-10-2008 night. In a release they said, the Sri Lanka military headquarters in Thalladi suffered heavy damage and many



either killed or injured in the air raid. They also claimed a successful raid on the Kelanitissa power station in the Capital Colombo at 11.45 PM, killing a turbine operator. Our fighter jets returned safely to their base, the tiger release further claimed. "The LTTE aircraft was airborne and dropped bombs on Mannar area military headquarters. We are checking on reports of damage and casualties," a military official told TNS earlier. "The military was also firing anti-aircraft guns". A lubrication oil cooler, connected to the gas turbine plant GT7 in Kelanitissa was burning, officials of the state-run utility Ceylon Electricity Board Told TNS. Meanwhile, the LTTE accused that the SLF air raid on a civilian settlement killed three civilians and injured another 11. "Every time the government claims victory over the Tigers, Tigers prove them wrong by carrying out audacious attacks," he further said.

**(xi) Suicide bomb attack at IDP rescue centre-Kilinochchi (defence.lk)**

At least 20 soldiers and eight civilians were killed and 64 others including 40 civilians reported injured when an LTTE woman suicide bomber blew herself at an IDP rescue centre, North of Visuamadu in Mullaitivu on 9-2-2009.

**(xii) Sri Lanka kamikaze attack targeted air force (www.armybase)**

A LTTE rebel kamikaze attack on Sri Lanka's capital could have destroyed the country's air force but didn't because the two explosives-packed planes were shot down before reaching their targets, the Sri Lankan government said on 22-2-2009. Air force spokesman Wing Commander Janaka Nanayakkara said one of the planes was loaded with about 264 pounds (210 kilograms) of explosives, but the pilot could not detonate it because he had lost a hand to anti-aircraft fire.

**(xiii) LTTE Suicide Bomber attacks Midlad Festival-Akyurassa**

**More of LTTE brutality : Fleeing civilians shot and hacked to death (Defence.lk)**

Fleeing civilians from the war driven areas in boats were fired by LTTE with small arms. Several people fell overboard receiving gunshot injuries, may be they were killed on the spot or drowned. "They are killing us and killing at will", said Tamil civilian rescued by Security Forces. "People are held forcibly against their will in the largest hostage taking of any kind in recent history", a defense observer said. Girls and boys are dragged from temporary shelters to undergo a crash course of combat training and explosives use and turned into suicide bombers, in what LTTE sees as its last line of defence against the advancing security forces.

21. Mr. P.K. Mishra, Director, Internal Security Division of the Ministry of Home Affairs, North Block, New Delhi, Government of India, in his affidavit has also reiterated what has been stated by Mr. M. Ashokkumar, P.W-1. It

has been pointed out by him that the Government of India is satisfied that though LTTE is basically a foreign based organization it continues to operate on the Indian soil and indulges in activities prejudicial to the sovereignty and territorial integrity of India through pro-LTTE organizations. The activities have been continuing since the first Notification, dated 14-05-1992 was issued and despite the fact that the ban is still in force. The aims and objectives of the political wing of the LTTE as well as the activities of the LTTE cadres indicate that behind all these activities there is a clear aim of cessation of land occupied by Tamils from the Indian Union. The LTTE continues to be an Unlawful Association and its members and sympathizers are carrying on unlawful activities.

22. The affidavit further avers that though LTTE suffered a huge loss in terms of top leadership elimination and territorial control in the North of Sri Lanka at the hands of Sri Lankan forces, recent reports reveal that remnant LTTE leaders/cadres/operatives are regrouping in Tamil Nadu, in pursuance of their avowed objective of establishing a separate Tamil Eelam and wrecking revenge on the traitors (India) and enemies (Sri Lanka). Four LTTE cadres and their Indian accomplices have been interdicted/arrested by the Tamil Nadu police since May, 2009 after the decimation of the LTTE. The investigation into these cases have disclosed arrival of several LTTE cadres through clandestine sailing and by air with genuine travel documents in the guise of refugees, revealing LTTE's regrouping efforts in Tamil Nadu. Jeeva @ Selvakumar, the Rameswaram based pro-LTTE smuggler and three of his accomplice were arrested on January 26, 2010 and was followed by arrest of three LTTE remnant operatives and recovery of 22 live 9 mm rounds of ammunition and Thurya Satphone from them. This establishes that the LTTE's terrorist infrastructure remain intact, albeit diminished, giving LTTE strategic depth in Tamil Nadu to strike at an opportune time.

23. It has further been asseverated by PW-2 that the Tamil Diaspora through the Internet portal continues to spread anti-India feelings amongst Sri Lankan Tamils by holding the top Indian political leaders responsible for the defeat of LTTE. Such continued propaganda through internet and the print-media is likely to impact VVIP security adversely in India. The LTTE continues its anti-India tirade in the overseas media. It will be relevant to reproduce the gist of some of the illustrative instances to show that LTTE leaders, operatives and supporters are inimically opposed to India's policy on their organization and action of the state machinery in curbing their activities. Some of the instances given in the Affidavit of PW-2 are :

- (i) In its editorial dated 30-09-2009, the pro-LTTE weekly "Paris Eelanadu" blamed India for the current condition of Eelam Tamils. While branding India as a traitor, it claimed that India was "more dangerous than the enemy Sinhalese". The editorial further



stated that if Western countries failed to deliver justice to the Eelam Tamils, they should move away from India in favour of China, as India was sacrificing the lives of Eelam Tamils for regional supremacy. It added that in case Tamil Eelam emerges, it would be only after the destruction of India, and to achieve this end, the Eelam Tamils should support China.

- (ii) Moreover, threatening letters, purportedly sent by LTTE cadres, were received by the Indian Missions in New Zealand and Italy in November, 2009 and January, 2010 respectively. In the former, it was mentioned that LTTE suicide bombers had been dispatched to various target locations. It also held Prime Minister Dr. Manmohan Singh, Smt. Sonia Gandhi, among others, responsible for the killing of LTTE leader V. Prabhakaran. The second letter contained 'crackers'. The cynical attitude of LTTE towards India after this incident is reflected by the report in pro-LTTE website Athirvu.com which reported on 27.1.2010 that India, which influences Sri Lankan Government, is telling a new story and wanted to tarnish the LTTE. India stated, after its embassy in Italy received a bomb parcel (IED), it is necessary to strengthen the security of its embassies. Indian ambassador Arif Khan said that the name of LTTE was mentioned in the sender of the parcel. He added that he received the parcel on January 20. The Indian Foreign Minister S.M. Krishna also said that it is a dangerous matter. It is to be mentioned here that India tried to show that the LTTE is involved in bomb attack in various countries whereas Sri Lankan Government is stating that they have destroyed the LTTE totally.
- (iii) Pro-LTTE website (www.tamilwin.com) in an article published on February 17, 2009 had criticized Sonia Gandhi that she had taken side with the Sri Lankan government and had antagonized the LTTE. It had further stated that she should have taken corrective steps for the wrong doing of Rajiv Gandhi but she had again done the same blunder. The article had ended that even if LTTE leader Prabhakaran was killed in this battle his lieutenants would become human bomb and attack. Sonia had under estimated her rivals and caught the tail of tigers and only time will tell whether she had not gone into the mouth of Tiger (LTTE).
- (iv) Further, in another article published in pro-LTTE website www.tamilwin.com on January 27, 2010 accused Union Home Minister P. Chidambaram for persuading LTTE leaders to surrender to Sri Lankan Army and getting them summarily killed on May 18, 2009.
- (v) Another pro-LTTE website, Puthinam.com in an article by T.R. Vazhuthi dated 17.04.2009 has, inter-alia, made allegations about India's involvement in

the war against the LTTE and the use of India's influence to carry out the war against LTTE.

- (vi) The 'Puthinam' website (www.puthinam.com) has carried an article on February 2, 2010 in Tamil written by T.R. Vazhuthi under the heading 'It is India All the Way'. In it, India has been accused of waging a war in Sri Lanka and committing genocide of Sri Lankan Tamils. The Sri Lankan Government has been dubbed as a mere puppet while Indian military top brass has been accused of directly conducting campaigns with the aid of Indian reconnaissance flights and Navy radars. LTTE was aware of these facts but for political and diplomatic reasons, they were keeping quiet. The article urged the Tamil community to understand that India was the real enemy and not Sri Lanka. Exhorting the Tamil diaspora abroad to target India and its Missions in foreign countries, the article suggested that Indian Missions abroad should be laid siege of continuously for at least 20 days. It also called for the World Tamil Community to rally behind the people of Tamil Nadu who, according to it, had shown an uprising as never before. The article was particularly critical of Congress ruling at the Centre and Sonia Gandhi. It remarked that Sonia's soul would not be moved even if thousands of Tamils fell prey to the war in Wanni or several Muthukumars immolated themselves. The Congress leader would not sleep peacefully till the last nail was driven in the coffin of Prabhakaran. The 'Congress India' would continue to wreak vengeance on Tamils for the demise of Rajiv Gandhi long ago, it added.

24. It has further been deposed by PW-2 that available inputs suggest that the Tamil Diaspora has been taking steps to put together an International organization. The most prominent of such grouping is the Transnational Government of Tamil Eelam (TGTE). These elements have not abandoned the ideological goal of an independent Tamil Eelam. The first meeting of TGTE was held in Philadelphia, USA, recently. Vishwanathan Rudrakumaran, a US citizen and a lawyer by profession, is the convener of TGTE. Although the stated objective of this organization is to campaign for the rights of Tamils to self-determination, however, this organization has been described as a "as parallel to a government", with the aim to set up Ministries/Legislative Committees. To begin with TGTE would form Transnational Constituent Assembly for Tamil Eelam by holding elections for 115 members amongst the Tamil Diaspora in Canada, USA, France, Switzerland, Germany, UK, Australia, Norway and South Africa. The victory of candidates aligned to the hardliner Nediyan, who is said to be the former aide to Manivannan @ Castro, head of LTTE's International Secretariat, in these elections, indicates the apprehensions that such agitations may again degenerate into a violent struggle for self-determination in the due course.

4566 GI/10-5

25. The Affidavit further goes on to state that the establishment of TGTE is an attempt to revive the secessionist brand of LTTE under the guise of a democratic political body with the paraphernalia of Government in exile. Further, the pro-LTTE groups from 14 countries have formed the Global Tamil Forum (GTF) to complement the TGTE. A copy of the press release issued by the office of the interim Chief Executive for the Transnational Government of Tamil Eelam has also been annexed which is marked as Exhibit PW2/8.

26. The Tribunal notes that both the abovesaid witnesses have submitted that due to recent developments in Sri Lanka, though LTTE is decimated, the Sri Lankan militants including LTTE cadres/drop outs, injured cadres, may infiltrate into India clandestinely through the coastal areas under the garb of refugees and take shelter in refugee settlements. After the death of LTTE leader Prabhakaran and other prominent leaders of LTTE in the war, the activities of pro-LTTE organizations and the speeches of pro-LTTE elements, show that the Tamil Eelam concept still remains their goal. Though LTTE is decimated, still they are capable of indulging in violent acts in Sri Lanka as after the Eelam War IV 2009, several LTTE cadres managed to enter India and proposed for regrouping pro-LTTE activities in Tamil Nadu continue. There is still a belief in the pro-LTTE organizations that the LTTE Supremo Prabhakaran is still alive and will lead the Eelam War V to achieve separate Tamil Eelam, which will affect the nation's unity, integrity and sovereignty. If the present ban is not further extended, the very purpose of the ban imposed from 1992 and extended from time to time will get defeated and thereby, an uncertain atmosphere would prevail. It is only because the ban is in existence today that the law enforcing agencies and the State administration are able to have control over the situation. It is, therefore, very important that the LTTE, a terrorist organization as per schedule to the Unlawful Activities (Prevention) Act, 1967 continues to remain an Unlawful Association for a further period of two years, with effect from 14.05.2010, failing which, one of the consequences could be that Tamil Nadu becomes an open ground for procurement, smuggling of war materials, etc. and other unlawful activities by the LTTE and its sympathizers. This may in turn impinge upon the sovereignty and territorial integrity of the country apart from having serious consequences on account of disturbance of peace and tranquillity in the State of Tamil Nadu. The United States, is still keeping the LTTE in the list of foreign terrorist organizations. Altogether, 32 countries including UK, EU, Canada, Australia are keeping the LTTE in the list of foreign terrorist organizations.

27. PWs 3 to 7 were examined in Chennai on 28.10.2010. Shri D. Chandra Kumar Inspector of Police 'Q' Branch, CID, Sivagangai District was examined by learned ASG as PW 3. In his statement, PW 3 affirmed that the affidavit dated 19.10.2010 on the record of the Tribunal,

exhibited as Exhibit PW3/1 is his and that he is the Investigating Officer in respect of CR No. 01/2010 dated 26.01.2010. He further stated that he recorded the "Confessional Statements" of Shri Selvakumar, Shri Palanikumar Kaleel Rahuman, Shri Raja, Shri Narmathan @ Mathan @ Sankar S/o Navarathinam Nanthakumar @ Kumar @ Aruviral Nantha and of Selvam @ Chezian @ Suthakar. The Tribunal queried whether any case under Section 10(a) of the Unlawful Activities (Prevention) Act, 1967 had been registered by him against the persons involved in CR No. 01/2008. To this the Witness has replied that he has registered one case under Section 13(1)(2) of the Unlawful Activities (Prevention) Act, 1967 and legal opinion has also been given under Section 10(a)(iv) of the Act. On being asked whether any case has been registered by him under Section 10(a)(i) of the Act, his reply was that "although a case has been registered under Section 10(a)(iv) of the Act, no case has been registered under Section 10(a)(i) of the Act."

28. PW 4, Shri D. Ilangoan, Deputy Superintendent of Police, Kumbakonam, Thanjavur District stated that formerly he was Inspector of Police in Trichy and was the Investigating Officer in CR No. 01/2008 in Trichy 'Q' Branch, CID. On gaining information, he arrested two Sri Lankans namely Premraj @ Raj @ Durai S/o Vellummyulam and Kumar @ Diesel Kumar @ Sivakumar S/o Subramanniyam on 3.3.2008 who confessed that they had constructed a boat measuring 70'x18' for the purpose of activities of the Liberation Tigers of Tamil Eelam. He also affirmed that the Affidavit, alongwith annexures from pages 2399 to 2421 of the record of the Tribunal, which is Exhibit PW 4/1, bears his signatures. On the request of Mr. Vaiko, the Tribunal asked the Witness whether any case had been registered against one Mr Seema Basher @ Basher Ahamad. He replied that a case had been registered against one Mr. Seema Basher @ Basher Ahamad in Trichy though he did not know about the fate of that case as he was no longer posted in Trichy.

29. The next witness examined was Shri R. Baskaran, Inspector of Police, 'Q' Branch CID, Thoothukudi District, Tamil Nadu. He was examined as PW 5. He stated that at the relevant time, that is, October 2008 he was posted at Ramanathapuram, 'Q' Branch, CID where he registered a case bearing CR No. 03/2008. He affirmed that the Affidavit on pages 2422 and 2423 of the record of the Tribunal bears his signature. The same is Exhibit PW 5/1. He further stated that he was the Investigating Officer in respect of CR No. 03/2008. Wherein several Statements of the accused have been recorded which can be found on pages 2434 to 2454 (including English translation). He also stated that he himself had recorded the speech of Seeman, on which special reliance has been placed by the Government in support of the notification. Extracts of the case are available on pages 2441 and 2453-2454 of the Tribunal Record. On request of Mr. N. Chandrashekhara, Advocate, the

Tribunal inquired from the witness that was he aware of any further proceedings in respect of these speeches. He replied that he did not know whether any legal cases or decisions have been given in respect of the speeches made by Shri Seeman.

30. Witness affirmed that Mr. Seeman had mentioned of genocide in Sri Lanka. On being asked whether he was aware that Shri Seeman is imprisoned under Offences Under National Security Act, 1967 (NSA), the Witness replied that he was aware that Shri Seeman is imprisoned under NSA but denied that the same was in respect of this case specifically.

31. At this stage, Mr. Chandrashekar handed over a decision reported as S. James Peter -vs- Secretary to Government, Public (Law and Order-F) Department, (2009) 2 MLJ (Crl.) 900 to buttress the argument that with respect to delivering speeches, two requirements are to be satisfied to attract Section 13 of the Act. Firstly, the speech delivered should have the capacity of affecting the sovereignty of the country, and secondly, the law and order problems resulting as a consequence of such a speech delivered. The Tribunal has carefully perused this precedent. Most importantly, it enunciates the law in these propitious words-

23. On a thorough and scrupulous analysis of the above extracted Sections, we could understand that Clauses (o) and (p) of Section 2 contain definitions of "unlawful activity" and "unlawful association" respectively. An "unlawful activity", defined in Clause (o), means "any action taken" of the kind specified therein and having the consequence mentioned. In other words, "any action taken" by such individual or association constituting an "unlawful activity" must have the potential specified in the definition. Determination of these facts constitutes the foundation for declaring an association to be unlawful under Sub-section (1) of Section 3 of the Act. Clause (p) defines "unlawful association" with reference to "unlawful activity" in Sub-clause (i) thereof, and in sub-clause (ii) the reference is to the offences punishable under Section 153-A or Section 153-B of the Indian Penal Code. In Sub-clause (ii), the objective determination is with reference to the offences punishable under Section 153-A or Section 153-B of the IPC while in sub-clause (i) it is with reference to "unlawful activity" as defined in Clause (o). These definitions make it clear that the determination of the question whether any association is, or has become, an unlawful association to justify such declaration under Sub-section (1) of Section 3 must be based on an objective decision; and the determination should be that "any action taken" by such association constitutes an "unlawful activity" which is the object of the association or the object is any activity punishable under Section 153-A or Section 153-B IPC. It is only on the

conclusion so reached in an objective determination that a declaration can be made by the Central Government under Sub-section (1) of Section 3.

Their Lordships were dealing with a habeas corpus petition pertaining to the preventive detention of Mr. S. Seeman under Section 13 of the Act. The detainee had made a speech before a gathering of Advocates. The Court held that since there was no consequent breach of law and order, or gathering of 5000 youth, or occurrence of any unlawful activity affecting the sovereignty of India, the preventive detention was unjustified and warranted quashing. It has little relevance to the question whether the impugned Notification deserves the imprimatur of the Tribunal.

32. Next to step into witness box was Shri A. Mohammed Aslam, Deputy Superintendent of Police, Organised Crime Intelligence Unit, Chennai. He was examined as PW 6. He stated that he was serving as Inspector of Police, 'Q' Branch, CID, Chennai from November, 2008 to July 2010 and that in his tenure as the Investigating Officer, a case bearing CR No.04/2008 was registered. He affirmed that the Affidavit on pages 2455-2457 bears his signature, which is Exhibit PW 6/1. On the request of Mr. Chandrashekar, a query was put to him whether any case against Shri Paranthaman under Prevention of Terrorism Act, 2002 had been withdrawn. He replied that there was a withdrawal of a case under POTA, against a person, namely, Paranthaman but it is not the same person, as mentioned in CR No. 04/2008. On request of Mr. Vaiko, the Witness was asked by the Tribunal as to whether any case had been registered against Mr. Vaiko under the Penal Code, to which he replied that he was aware of the pendency of a case regarding Mr. Vaiko and his speeches in which he also made reference to his book "I Accuse", but was not aware of the details.

33. Finally Statement of A. Thangavel, Deputy Superintendent of Police, Veda sandur, Sub Division, Dindigul District, Tamil Nadu was examined as PW 7. He affirmed that the Affidavit shown to him, which is Exhibit PW 7/1, bears his signatures. He further stated that he was Investigating Officer in respect of CR No. 325/2009 while he was posted in Dindigul Town, North the FIR in respect of which is at page 2486.

34. On 28-10-2010, in the course of the hearing of this Tribunal at Chennai, Mr. M. Radhakrishnan, learned Advocate sought to represent one Mr. Vijayarathnam Sivanesan, who sought impleadment premised on his being a former member of the LTTE. One Mr. Kalaiarasu, aged about 28 years, claimed to be the Attorney holder of Mr. Vijayarathnam and appeared on his behalf before the Tribunal. The Petitioner sought to challenge the Declaration made in the subject Notification No. S.O. 1090(E), dated 14-5-2010 issued by the Government of India and also prayed that all the documents produced before the Tribunal during the course of hearing by the Government be furnished to him and he be afforded a chance to cross-

examine the witnesses already examined before the Tribunal. The Tribunal expressed the view that there was no reason for the Attorney, namely, Mr. Kalaiarasu to have sworn an Affidavit on behalf of Petitioner Mr. Sivanesan, who should have filed his own affidavit since all the facts pertain to him. Furthermore, the Tribunal did not appreciate any difficulty on part of the Petitioner in doing so since it was the Petitioner's own case that a Power of Attorney has been executed by him on 22-10-2010. On merits, the Tribunal arrived at a decision that being a former member of the LTTE and having no direct concern with it at present, the Petitioner was on no better footing than the other Petitioners like Mr. Vaiko and Mr. Nedumaran, whose Impleadment Applications/ Intervention Petitions have already been rejected on the ground that they were neither the members nor the office bearers of the LTTE, and thus had no locus standi to represent the case of the LTTE before this Tribunal. After hearing both sides, this Tribunal, vide Orders dated 28-10-2010, rejected both the petitions/applications as follows:

"Mr. M. Radhakrishnan, learned Advocate, who has been appearing before this Tribunal, files another petition under Section 4(3) of the Unlawful Activities (Prevention) Tribunal, 1967 (hereinafter referred to as "the Act") purporting to be on behalf of Mr. Vijayarajnam Sivanesan through his alleged Attorney Mr. Kalaiarasu. The Motion prays that the Declaration made in the Notification No. S.O. 1090(E) dated 14-5-2010 issued by the Government of India may be cancelled.

In a similar manner another Application under Section 5 of the Act has also been filed praying that the Petitioner may be furnished copies of all documents produced before the Tribunal during the hearings and further to summon witnesses already examined by the Tribunal for cross-examination by the Petitioner. Mr. Chandhok has requested for time to enable the Union and/or State Governments to check the integrity and legality of the Power of Attorney; two petitioners and affidavits. Because of the exigency of the situation caused by the critical shortage of time, this request is declined.

It is alleged that Mr. Kalaiarasu is the "duly constituted Attorney" of Mr. Vijayarajnam Sivanesan. The original of the Special Power of Attorney had been shown to the Tribunal but on the insistence of Mr. Radhakrishnan has been returned to him. Law requires that a document especially a Power of Attorney executed outside India must be authenticated by the Indian Embassy. This is for obvious and pragmatic reasons that since the Tribunal, or for that matter, any Court of law, is not in a position to verify the genuineness of the documents including the verification.

Be that as it may because of the paucity of time, the Tribunal considers it advisable to deal with the petitions in its entirety. Firstly, the Tribunal does not find sufficient cause or reason for the Attorney, namely, Mr. Kalaiarasu to have sworn an Affidavit on behalf of petitioner Mr. Sivanesan, who should have filed his own affidavit since all the facts pertain to him. The Tribunal does not find any difficulty in doing so since it is the Petitioner's own case that a Power of Attorney has been executed by him on 22-10-2010. The Petitioner/Affiant should have filed his own Affidavit.

It is important to highlight that notice of the proceedings of this Tribunal had been published and publicized in various forms and in the media as far back as in August 2010. The delay in approaching the Tribunal can justifiably lead to the conclusion that the intention of the Petitioner is to delay the proceedings.

Mr. Vaiko, Mr. Chandrashekharan as well as Mr. Radhakrishnan who have participated in the proceedings of the Tribunal and on whose suggestion the Tribunal has again put certain questions to the witnesses, have stated in unison that the so-called decimation of the LTTE does not lead to the conclusion that the LTTE has been extinguished. It is submitted by them that LTTE is very much in existence.

A similar Application filed before the Tribunal by Mr. Vaiko had been rejected by Orders dated 25-9-2010. Mr. Radhakrishnan had also filed Motions on behalf of Tamil Nadu Peoples Rights Forum and by Mr. Chandrashekharan on behalf of Mr. Pazha Nedumaran. Both motions/petitions had not been accepted by the Tribunal in terms of Orders dated 6-10-2010. The said decision is predicated on the language of Section 4(3) of the Act which permits/postulates only the presence of office-bearers or members of the concerned Association. Mr. Radhakrishnan had filed W.P. No. 23141 of 2010 against the said Order in the High Court of Judicature at Madras. Their Lordships were pleased to reject the Writ Petition by Orders dated 19-10-2010.

Nevertheless, the Tribunal has, despite all the legal infirmities mentioned above, perused the affidavit of Mr. Kalaiarasu. It is specifically affirmed in the said affidavit that Mr. Vijayarajnam Sivanesan, the present applicant/petitioner before the Tribunal, that "he was released by the Indian Army on 5th March, 1990 and soon after his release he left the movement on 9th March, 1990". The Affidavit contains a photocopy of an attestation dated 10-2-1999 by the LTTE attesting, inter alia, that the Petitioner had left the Movement on 9-3-1990.

In these circumstances the case of the present Petitioner Mr. Vijayarajnam Sivanesan is in no manner better placed than Mr. Vaiko or Mr. Pazha Nedumaran. He is neither an office bearer nor a Member of the LTTE. Arguably, he is worse placed, since he has left the LTTE

movement. He does not possess locus standi to be impleaded or heard in these proceedings. Both the petitions/applications are accordingly rejected."

35. Mr. Vijayaratnam Sivanesan approached the High Court of Judicature at Madras in W.P. No. 25041 of 2010 for issuance of a writ of certiorari for quashing the order dated 28-10-2010 passed by this Tribunal. The Division Bench presided over by Hon'ble the Chief Justice dismissed the writ petition on 10-11-2010, *inter alia*, with the following observations :

"It cannot be disputed that the Unlawful Activities (Prevention) Act, 1967 was enacted for the purpose of providing more effective prevention of certain unlawful activities of individuals and associations. The sole object of the Act is to provide national integrity and to prevent any activity which is intended to disrupt the sovereignty and territorial integrity of India. Having regard to the aim and object of the aforesaid legislation, we are of the considered opinion that if any association or individual moved before the Tribunal for declaration that such association is not unlawful, the member of such association shall have to file a personal affidavit and he cannot resist the notification through the Power of Attorney Holder."

36. The Central Government has broadly relied on four main grounds in support of the Notification dated 10-6-2010 and the State Government adopted the arguments of the Central Government. The same are as follows :—

1. The objective of the Liberation Tigers of Tamil Ealam (LTTE) to obtain a separate homeland, namely, 'Tamil Ealam' threatens the sovereignty and territorial integrity of India, and amounts to cession and secession of a part of the territory of India from the Union and thus falls within the ambit of an unlawful activity.
2. The Pro-LTTE forces are drawing support for the LTTE by taking out procession, demonstration etc. causing disquiet and threat to the security of the State of Tamil Nadu.
3. Pursuant to the decimation of LTTE in Sri Lanka by the Sri Lankan Army, the remnant cadres are regrouping in Tamil Nadu to form a rear base for their regrouping activities.
4. The internet propaganda spread on the worldwide Web declaring the top Indian leadership as traitors is contributing in spread of anti-India feelings amongst Sri Lankan Tamils and thus raising concerns about the VVIPs security in India.

37. The Central Government places reliance on the Affidavits of PW1 to PW7. Besides these Affidavits, reliance is also placed on the materials in the sealed covers which have been opened and perused. The Affidavits

mention various cases which have ended in conviction and are proof of incessant pro-LTTE activities which pose a grave threat to national security and integrity, details of which are already noted above. The learned Additional Solicitor General has pointed out various excerpts from the confessional statements of the accused involved in these cases to support the claim of the government that there is influx of members of LTTE from Sri Lanka into the coastal regions of Tamil Nadu through sea route, there is a ongoing supply of armunitions, fuels and other materials to support the LTTE's remnant cadres in Sri Lanka through India, and that narcotic drugs are also smuggled into and sold in India by LTTE supporters in order to raise money for the LTTE. It is indeed relevant to recall the confessional statement of accused Selva Kumar, recorded by Shri P. Ravi, Inspector of Police, 'Q' Branch, CID, Ramnathpuram, stating that - "They told me to collect the pistol rounds and satellite phone from Narmathan and keep them in my safe custody. Then I went to Muguntharayasaththiram sea-shore, met Narmathan and Sudharshini, collected 22 pistol rounds with three magazine and satellite phone. .... Again I brought another LTTE cadre in our boat on 23-01-2010 as per the instruction of Madurai Ananth and Suresh of Sri Lanka and directed him to Ananth at Madurai".

38. Another accused, namely, Kaleel Rahuman has given a confession to Shri Chandrakumar, Inspector of Police, 'Q' Branch, CID, Sivagangai that - "One Dheen of our village was doing handial business (Hawala transaction). The above-said Dheen introduced hundial business to me about seven months back and also Hakkim of Chennai. From then onwards I was doing hundial business along with the other businesses. I am using mobile number 9566834243. I have transacted a few times, the hundial money given by Farooq of Sri Lanka to Selvakumar of Rameswaram through Hakkim of Chennai. Few days back Hakkim contacted me and told that Farooq has sent Rs.8 lakh to Selvakumar for smuggling heroin and sea cucumber and instructed me to receive this amount from Madurai Mohan for Selvakumar".

39. Another accused whose confessional statement was recorded by Shri Chandrakumar is Narmathan alias Mathan alias Sankar who stated in his confession that - "As per the arrangements made by uncle Selvanayagam, I left Pandarikulam on 23-12-2009 morning and met one LTTE cadre Suresh at Pesalai. Then I went along with Suresh to Thalaimannar to his house. Sudarshan came there along with Sudharshini in a motor cycle. When I was staying in Suresh house, he gave 22 pistol rounds with three magazine, one satellite phone and one G.P.S., to be handed over to Ananth, who is at Maudrai through Selvakumar of Rameswaram in India. He told me that the expenses in India will be sent through one Farook, who is smuggling Narcotic drug and sea cucumber. On 23-12-2009 Suresh brought us to the sea-shore through forest area and sent in a plastic boat to India. The boat was driven by one Joy belongs to LTTE movement. .... We were waiting up to 1 pm and I

4566 GI/10-6

contacted Suresh and Suganthan through the satellite phone and told them Selvakumar did not come to take us. They told me to remain in that place itself and Selvakumar will come immediately to pick up us. After that Selvakumar came there and received 22 pistol rounds with three magazines and the satellite phone. Selvakumar instructed us to move to Mandapam Refugee settlement via seashore from Moohuntharayarchathiram bus stand and that he will proceed to Mandapam first. I came along with Dharshini to Mandapam on 24-12-2009 night and buried the GPS near Bagavathiamman Temple and went to Mandapam camp and registered as refugee". Another accused, namely, Nanthakumar @ Kumar @ Aruviral stated in his confession that - "My father Nataraja was in LTTE and he was very close to Mathaiah. Often he visited India and procured contrabands to LTTE. When the dispute arose between Mathaiah and other LTTE leaders, they enquired my father and left him. .... I ferried Suthakar of LTTE from Sri Lanka and dropped at Dhanuskodi in my plastic boat. In the 2nd month of 2007, the LTTE cadres gave Rs.2 lakh to purchase another new boat. I gave the money to Moorthy @ MLA of Perunkulam. But he did not purchase a new boat as he assured and said that the money was seized by Police. I smuggled gelatin sticks, detonators, diesel, petrol, kerosene, resin for LTTE in the plastic boat several times. LTTE cadre Suthakar, who was in India, purchased gelatin sticks, detonators and gave it to me and I in turn smuggled it for LTTE. In the year 2008, Suthakar gave one two wheeler which I smuggled it to LTTE. In the same year I send two LTTE cadres, Jeeva and Jogan to India for smuggling goods for LTTE. They registered their names in Mandapam camp as refugees but failed to smuggle goods to LTTE. So I took them back to Sri Lanka. .... I did not register myself as refugee but stayed with one Nathan at Koothiyarkundu refugee settlement and with Sudhakar at Valayapatii Settlement and also at Coimbatore. .... During 6th month of 2009, Suthakar told me, to make arrangements to bring an important LTTE leader from Sri Lanka. Accordingly, I went along with Suthakar to Rameswaram and met one Selvaraj and asked him to make arrangements to bring our relative from Sri Lanka. But he advised us to meet one Selvakumar, who is smuggling sea cucumber and other goods to Sri Lanka. Accordingly, we met Selvakumar and talked about ferrying one LTTE cadre from Sri Lanka to India. .... Ananth and Sudhakar told me that if I smuggled heroin given by Thennavan to Sri Lanka, I will get amount in lakhs. In the mean time Palanisekar, a known person requested me to make arrangement to ferry him to Sri Lanka and told me that he will bear the expenses. I discussed this matter with Ananth and Suthakar and decided to make arrangement to sent heroin through Palanisekar. Palanisekar also accepted to smuggle heroin due to his enthusiasm to go to Sri Lanka". The seventh accused in this case, namely, Selvam @ Chezhan @ Suthakar who is also named in other confessions gave his confession statement to Shri Chandrakumar stating that - "I have studied till O.L. in

Ganesa Maha Vidhyalaya, Mayilatti. I joined LTTE in 1998 during my school days and my organizational name is Chezhan. After completing O.L. I underwent training in Mayilatti and Jaffna Kili training camp in 1995 for handling the weapons A.K. 47, LMG, Pistol and Grenade. .... In 1995 when LTTE evacuated Jaffna, I proceeded to Vanni region along with my wife and stayed in a muslim house which as vacant. My wife gave birth to a child. During 1997, Thiyagarajan (LTTE cadre) met me and asked me to board the material that come from Mannar Island to LTTE organization in the boat and bring it to vanni region. According to that I boarded diesel, petrol and kerosene and gave it to him. At that time I was named Suthakar in the organization. .... Sangiliyan @ Agathiyan, incharge of LTTE organization at Vidathal island asked me to go to India and purchase and send weapons and materials needed for the organization. Accordingly, during 5th month of 2007, I came to Dhanuskodi and registered in Mandapam refugee camp and stayed in the camp. Then I went to Perumalpuram refugee camp, Kannihyakumari District during 10th month of 2007, and stayed there till 5th month of 2008. Then I went to Tirunelveli and worked as coolie in railway. At that time Sangiliyan @ Agathiyan again asked me to come to Sri Lanka. .... As there was no employment opportunity, I went to Tirunelveli and worked in Tirunelveli, Kodungallur in Kerala, Tiruppur banian company. At that time I met Palanisekar of LTTE through Agathiyan. Palanisekar was earlier a campmate of mine. During 2nd month of 2009, he told me that there are 10 explosive substance parcels and asked me to send it to Agathiyan. I came to Mandapam and through Joseph of Akkal Madam sent the above items for Rs. 40,000 via Thondi. Thereafter during 4th month of 2009, on arrangements made by Thennavan, I, Kalairasan (LTTE cadre) Joseph of Akkalmadam and Ebi assembled at Thirupparankundam. At that time I gave a satellite phone, G.P.S. brought by Kalairasan to Joseph for smuggling purpose for LTTE organization. During 6th month of 2009, Thennavan of Chennai (LTTE cadre) contacted me and told to bring Ananth @ Poonguli Master (LTTE cadre) to India. .... Then I and Nanthakumar went to Chennai with Poonguli Master and handed over him to Thennavan near Vadapalani Saravanabavan Hotel. .... Then he told that already he sent heroine packets several times and asked to sent it to Sri Lanka through Ananth @ Poonguli Master and Nanthakumar. I gave it to Ananth @ Poonguli Master and Nanthakumar at Madurai and told them to send it to Sri Lanka and I went to Mettupatti. Ananth @ Poonguli Master and Nanthakumar have sent the heroin powder pockets through Selvakumar and his relative Palanikumar".

40. In another case, CrI 1/2008 involving an incident where a boat was made by LTTE supporters to send to Sri Lanka, Judgment has been delivered by the Judicial Magistrate, Tiruchirapalli, holding the accused guilty of jointly conspiring between January, 2007 and February, 2008 at Rameswaram, Mandapam and Trichy with an

intention to assist the LTTE cadres. They were punished for offences under Section 120(b)(i) of Indian Penal Code, 1860 and Section 13(2) of the Act. This is to demonstrate that in defiance of the previous ban LTTE activities had not come to a halt.

41. An another case involves LTTE activities, registered as Criminal No. 3/2008 against Ameer Sulthan and Seeman for delivering speeches supporting the unlawful activities of LTTE and threatening the national integrity of India. In these speeches, the accused are alleged to have criticized the policies of Indian government and spread dissatisfaction amongst Tamils by blaming Indian government and holding them responsible for the massacre against Tamils in Sri Lanka. Seeman is also alleged to have advocated the cause of a separate Eelam and expansion of border for international recognition. A translation of these speeches is annexed to the Affidavit of the officer investigating the case.

42. In support of the allegations that the LTTE remnants are regrouping and that they are smuggling explosives, satellite, phones and other electronic equipments, the learned ASG relies on the criminal case bearing Cr. No. 4/2008. I have perused the First Information Report (FIR) and confessional statements of accused, Amir Antony Paranthaman and Dhilipon who have confessed to their involvement in smuggling explosives, satellite phones and other electronic goods to aid LTTE in Sri Lanka. Their confessions are said to have confirmed that the LTTE elements are active in India and are smuggling explosives etc. to their counterparts in Sri Lanka. The confessional statements of the two accused is also said to be corroborated by each other.

43. The fifth case, bearing Criminal Number 325/2009 relates to a speech made in a public meeting on 26.02.2009 in which the accused Rolathere T.S. Moni referred to the assassination of former Indian Prime Minister, Shri Rajeev Gandhi and said that if the LTTE was involved, it is appreciable, and if not, it is condemnable. He also urged people to vote for the politicians who support the cause for separate Tamil Eelam.

44. Other material that is relied on by the Government are recent reportings in the media and publications on the internet, which according to learned ASG, reveals the grave threat that the said Association poses to India. The Central Government in its Affidavit has filed the following annexures to place relevant facts before this Tribunal in support of the ban -

1. Copy of the Constitution of People's Front of Liberation Tigers (Exhibit PW2/2).
2. Orders of all the previous Tribunals that have continued the ban imposed on the LTTE in 1992 from time to time (Exhibit PW2/3).
3. Copies of judgments in five different cases ending in conviction from June 2008 till May 2010 (Exhibit PW2/4).

4. Copies of FIRs registered against various supporters of the LTTE for making provocative speeches in support of the LTTE (Exhibit PW2/5 colly.).
5. Contents from internet containing anti-India matter (Ex. PW2/7).
6. Newspaper reportings of regrouping of the LTTE and their joining forces with the Maoist groups. (Ex. PW2/8).

45. Besides the evidences in support of the ban, the learned ASG also referred to the Schedule annexed to the Act which enlists LTTE amongst various terrorist organizations declared so by the Central Government by exercising its power under Section 35 of the Act, which is a separate category distinct from an Unlawful Association. It is pertinent to mention that the Act provides for a challenge under its Section 37 to any entity being declared as a Terrorist Organization. This remedy has not been availed of even though terrorist activity is punishable with life imprisonment whereas unlawful activity attracts incarceration upto two years. It is indeed inexplicable that the heinous action has been accepted whilst the lesser is attempted to be assailed.

46. The Tribunal had allowed some of sympathizers/supporters of the ideology of LTTE to present their submissions on the Notification, even though their impleadment has been rejected. Mr. Vaiko, General Secretary, Marumalarchi Dravida Munnetra Kazhagam, Mr. N.Chandrashekharan, Advocate for Mr. Pazha Nedumaran, President, Tamilar Desiya Iyakkam and Mr. M. Radhakrishnan, Advocate for Prisoners Rights Forum were, therefore, allowed to present their views after the learned ASG had placed all relevant facts and material in support of the ban.

47. Mr. Vaiko has taken pains to state that - "Tamil Nadu is part and parcel of this great country, India". He vociferously argued that the notion of a Tamil homeland, viz. "Tamil Eelam", for which the LTTE is fighting in Sri Lanka, does not include separation of any part or territory of India. He has submitted that the LTTE has never been a threat to the national integrity and sovereignty of India. For this, he placed reliance on the speeches delivered by Late Prabhakaran and other prominent leaders of the LTTE on "Martyrs Day". He also emphasized on the fact that the proposed map of the "Tamil Eelam" used in the background of the dais from which said speeches were delivered only included Northern and Eastern provinces of Sri Lanka and no part of Indian Territory. He also argued that the Central Government is only relying on extraneous materials and suspicion theories which are not substantial enough to justify the ban on the LTTE. He also argued that threat to VVIP security cannot be a ground to impose the ban under Section 3 of the Act.

48. Mr. Chandrashekaran, in addition to the objections already raised by Mr. Vaiko, argued that the Central

4566 GI/10-7



Government has essentially relied on the confessional statements of the accused which is inadmissible under Section 25 of the Indian Evidence Act, 1872. He drew attention to the Rule 3 of the Unlawful Activities (Prevention) Rules, 1968 which states that the Tribunal is to follow the Indian Evidence Act as far as practicable. By placing reliance on *S. James Peter*, it was argued by him that mere speeches, which do not cause dissatisfaction against the Government or any law and order problem pursuant to such speech, the accused cannot be held guilty under the ambit of Section 13 of the Act and thus these speeches can also not be used to reinforce the ban on the LTTE in support of which they have been made. He also raised an objection to the use of newspaper articles and Internet publications as evidence by the Tribunal on the ground that the same does not formulate authentic evidence and there is no means to verify the same. It has already been noted above that the decision in *S. James Peter* was given in totally different circumstances, that is, where the preventive detention of Seeman was called into question and came to be struck down. The Judgment is of no advantage on the nodus whether the Notification meets with the requirement of law. The penal consequences of a speech are not germane to this question. Furthermore, while it may not be sound to base a conviction on newspaper articles and publications on the internet, information gathered from these sources will have pertinence to form an opinion whether prevailing circumstances justify a banning order. The Tribunal is in no manner of doubt that if the conviction of a person, as in the case of Seeman, is founded on such material alone, it may not get the jural approval. If subjective satisfaction is sufficient to sustain a preventive detention, where the most valuable rights of personal freedom stand curtailed, such satisfaction should ordinarily be adequate in the context of the impugned Notification. A reading of *Jamaat-E-Islami* clarified that because of the language employed in the Act, the Tribunal is expected to 'adjudicate' and therefore should itself be satisfied of the sufficiency of reasons for the ban. Reliance on "confessional statements" can be used so far as custom offences are concerned, as has been clarified by the Hon'ble Supreme Court in *Percy Rustamji Basta -vs- State of Maharashtra*, AIR 1971 SC 1087. It seems to be beyond cavil that confessions can be read or treated as evidence of facts so long as they are not employed to convict the person. In doing so, there is no semblance or possibility of the person to whom the statement is ascribed being tortured or victimized. This appreciation of the law is made venerable by centuries on a reading of *Queen-Empress -vs- Tribhovan Manekchand*, (1885) ILR 9 Bom 131. Mention need only be made of *Khatri -vs- State of Bihar*, (1981) 2 SCC 493 and *Suman -vs- State of Tamil Nadu*, AIR 1986 Mad 318 (Full Bench).

49. As regards the nature of inquiry, quality of evidence and the standard of proof that a Tribunal formed under Section 4 of Unlawful Activities (Prevention) Act is

required to hold and consider while determining existence of "sufficient cause" for declaration of an Association as unlawful, it is pertinent to note the observations of their Lordships in *Jamaat-E-Islami Hind -vs- Union of India*, (1995) 1 SCC 428, which holds that:-

11. Section 4 deals with reference to the Tribunal. Sub-section (1) requires the Central Government to refer the notification issued under sub-section (1) of Section 3 to the Tribunal "for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful". The purpose of making the reference to the Tribunal is an adjudication by the Tribunal of the existence of sufficient cause for making the declaration. The words 'adjudicating' and "sufficient cause" in the context are of significance. Sub-section (2) requires the Tribunal, on receipt of the reference, to call upon the association affected "by notice in writing to show cause" why the association should not be declared unlawful. This requirement would be meaningless unless there is effective notice of the basis on which the declaration is made and a reasonable opportunity to show cause against the same. Sub-section (3) prescribes an inquiry by the Tribunal, in the manner specified, after considering the cause shown to the said notice. The Tribunal may also call for such other information as it may consider necessary from the Central Government or the association to decide whether or not there is sufficient cause for declaring the association to be unlawful. The Tribunal is required to make an order which it may deem fit "either confirming the declaration made in the notification or cancelling the same". The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the Association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the Association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lies between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is "whether or not there is sufficient cause for declaring the Association unlawful". Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.



12. Section 5 relates to constitution of the Tribunal and its powers. Sub-section (1) of Section 5 clearly provides that no person would be appointed "unless he is a Judge of a High Court". Requirement of a sitting Judge of a High Court to constitute the Tribunal also suggests that the function is judicial in nature. Sub-section (7) says that any proceeding before the Tribunal shall be deemed to be a "judicial proceeding" and the Tribunal shall be deemed to be a "Civil Court" for the purposes specified. Section 6 deals with the period of operation and cancellation of notification. Section 8 has some significance in this context. Sub-section (8) of Section 8 provides the remedy to any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section 4, by an application made to the District Judge who is required to decide the same after giving the parties an opportunity of being heard. This also indicates the judicial character of the proceeding even under Section 8. Section 9 prescribes the procedure to be followed in the disposal of applications under the Act. Provisions of Section 9 of the Act lay down that the procedure to be followed by the Tribunal in holding an inquiry under sub-section (3) of Section 4 or by the District Judge under Section 8 shall, so far as may be, be the procedure prescribed by the Code of Civil Procedure for the investigation of claims. Sections 10 to 14 in Chapter III relate to "offences and penalties" which indicate the drastic consequences of the action taken under the Act including a declaration made that an association is unlawful. The penal consequences provided are another reason to support the view that the inquiry contemplated by the Tribunal under Section 4 of the Act is judicial in character since the adjudication made by the Tribunal is visited with such drastic consequences.

13. In our opinion, the above scheme of the Act clearly brings out the distinction between this statute and the scheme in the preventive detention laws making provision therein for an Advisory Board to review the detention. The nature of the inquiry preceding the order made by the Tribunal under Section 4 of the Act, and its binding effect, give to it the characteristic of a judicial determination distinguishing it from the opinion of the Advisory Board under the preventive detention laws.

14. In Section 4, the words 'adjudicating' and 'decide' have a legal connotation in the context of the inquiry made by the Tribunal constituted by a sitting Judge of a High Court. The Tribunal is required to 'decide' after "notice to show cause" by the process of 'adjudicating' the points in controversy. These are the essential attributes of a judicial decision.

17. The reference to the Tribunal is for the purpose of adjudicating whether or not there is sufficient cause for declaring the Association unlawful. Obviously the purpose is to obtain a judicial confirmation of the existence of sufficient cause to support the action taken. The confirmation is by a sitting High Court Judge after a judicial scrutiny of the kind indicated. This being the nature of inquiry and the purpose for which it is conducted, the materials on which the adjudication is to be made with opportunity to show cause given to the Association, must be substantially in consonance with the materials required to support a judicial determination. ...

50. Mr. M. Radhakrishnan added that since the LTTE has been decimated in Sri Lanka, its objective or Constitution cannot be said to be existing in a vacuum, and thus the claim of Central Government that LTTE still poses a threat to India is absurd. He emphasized that all the speeches relied on by the learned ASG only advocates the cause of separate Tamil Homeland called "Tamil Eelam" and there is nothing unlawful in espousing such a cause. He also argued that there has been no incident post May 2008, which has ended in conviction and therefore there is no substantial ground to support the ban. He also raised concern for the Tamil refugees who, according to him, are being branded as LTTE supporters and thrown into prisons without any offence. He prays that if the Ban is lifted from the LTTE, the human rights of those refugees could be protected. The Tribunal is not impressed with any of the inputs of Mr. Vaiko, Mr. Chandrasekharan and Mr. Radhakrishnan.

51. The decimation of the LTTE does not lead to the conclusion that it has become extinct. In fact, this is contrary not only to the evidence placed before this Tribunal, but also to the submission of Mr. Vaiko and Mr. Chandrasekharan as also himself since he has admitted that speeches in favour of a Tamil Homeland have been made. It is evident that a vacuum has not been created after the alleged decimation of LTTE; in fact, the use of this word undermines the entire submission of Mr. Radhakrishnan since a vacuum is an abhorrence in science; it is always immediately filled up. The apprehension that it will be filled up by remnants of LTTE cannot, therefore, be seen as fanciful. Moreover, the formation of the Transnational Government of Tamil Ealam, which has not been denied by any of these interveners, is an adequate and complete answer. The Tribunal has perused various maps filed on the record which depict Tamil Ealam covering portions not only of Sri Lanka but also the State of Tamil Nadu, Lakshadweep and Maldives. Moreover, the Constitution of PFLT as well as Transnational Government of Tamil Ealam contemplates not only a social or cultural movement of Tamils, but postulates a separate political State which perforce means cessation from Indian Territory.

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52. A perusal of Rule 3 of Unlawful Activities (Prevention) Rules, 1968 discloses that it is open to this Tribunal to look into all cogent and relevant material facts, though, not proved strictly in conformity with the Rules of the Evidence Act. However, since the inquiry postulated in the Act is in the nature of judicial determination, the material adduced must be germane and relevant to evidence 'sufficient cause' for declaring the Association unlawful.

53. After considering the entire evidence placed on the record and the arguments advanced by the learned ASG on behalf of the Central Government, in support of the Notification dated 14.05.2010, this Tribunal is satisfied that there exist sufficient material to support the Notification to declare the LTTE as an Unlawful Association. A comprehensive and holistic reading of the evidence by way of the affidavits of PW 1 to 3 and 5 to 7 along with their annexures, and other material evidence put on record by the Government, has left no manner of doubt that the LTTE is still active within the State of Tamil Nadu and is endeavouring to gain support from the Pro-LTTE elements in the country.

54. Inasmuch as PW4 has referred to an incident which occurred on 3.3.2008, his testimony is of scant value and relevance. The confessional statements of the accused are not available and hence this Tribunal cannot assume that the activities in respect of which they were prosecuted and sentenced continued even beyond May 2008.

55. The Pro-LTTE elements and the remnant LTTE cadres, by use of local smugglers are actively participating in unlawful activities in pursuance of the unlawful objectives of the LTTE. The illegal immigration of the Sri Lankans through coastal areas, the smuggling of narcotics to raise funds and supply of fuel, explosives etc. from the Indian soil are all evidences of the active presence of LTTE in India. The confessional statements, which are corroborated by the accused persons and seizure of material sought to be smuggled to Sri Lanka, admittedly for the activities of the LTTE, adequately proves for the purpose of this Tribunal that Indian soil is being used for unlawful activities propelled by the remnant LTTE cadres.

56. The Central Government has also succeeded in establishing that sympathizers/supporters of LTTE in India have been spreading anti-India feelings amongst the Tamils through public speeches and internet portals. These

speeches are certain to incite hatred and feeling of dissatisfaction and disaffection for India, and separatist feeling amongst the Tamils living in India, thereby posing a grave threat to the national integrity. Provocative speeches in favour of LTTE are being made in which the top political leaders of the country are branded as traitors and Indian Tamils are incited to claim a separate land on the basis of linguistic and cultural divergence to form part of the Tamil Eelam.

57. The establishment of Transnational Government of Tamil Eelam (TGTE) is also an attempt to continue the LTTE movement by associating various LTTE leaders and cadres which are spread around the globe under the guise of democratic political body with the paraphernalia of Government in exile. There is a Report dated 15.6.2009 containing a statement of Mr. Selvarasa Pathmanathan, styled as Head of International Relations for the Liberation Tigers of Tamil Eelam explaining the necessity for a Provisional Transnational Government of Tamil Eelam. The internet discloses in detail the events which transpired at a meeting at the Constitution Centre in Philadelphia Pennsylvania where it was declared that the "Transnational Government of Tamileelam will work hard to trigger a referendum for the people of Tamileelam very soon to decide on the independence of Tamileelam". The use of the word "Transnational" belies the argument that the objective of the LTTE is not a cessation from India. There is evidence of activities of LTTE in the foreign countries despite there being a ban on it in those countries as has been imposed in India. In light of these facts, LTTE remains a threat to India's integrity, security and sovereignty. The premises on which the subject Notification is predicated are real and are sufficient to justify it.

58. In this analysis, the Tribunal is of the opinion that there is sufficient material and cause for declaring the LTTE as an Unlawful Association within the contemplation of the Act. Therefore, the Declaration made by the Central Government vide Notification dated 14th May, 2010 is confirmed.

November 12, 2010

(JUSTICE VIKRAMAJIT SEN)  
UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

[F. No. I. 11034/1/2010-IS.I]  
DHARMENDRA SHARMA, Jt. Secy.